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# SUPREME COURT OF THE UNITED STATES.

## No. ~~157.~~ 79.

1329

**JOHN O. WOODRUFF AND ROBERT M. HENNING, SURVIVORS OF JAMES E. WOODRUFF, DEC'D., APPELLANTS,**

*vs.*

**WILLIAM NELSON, EDWARD S. DENNIS, SHERBOURNE SEARS, FRANCIS BURRITT, AND AARON COHEN.**

McLean

Lard case — loss of 60,000 pounds

APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE SOUTHERN DISTRICT OF NEW YORK.

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# SUPREME COURT OF THE UNITED STATES.
## No. 157.

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JOHN O. WOODRUFF AND ROBERT M. HENNING, SURVIVORS OF JAMES E. WOODRUFF, DEC'D., APPELLANTS,

*vs.*

WILLIAM NELSON, EDWARD S. DENNIS, SHERBOURNE SEARS, FRANCIS BURRITT, AND AARON COHEN.

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APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE SOUTHERN DISTRICT OF NEW YORK.

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*Certificate of Clerk of Circuit Court.*

United States of America, }
Southern District of New York. } *ss.*

I, Kenneth G. White, Clerk of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, do hereby Certify that the Writings annexed to this Certificate are true copies of their respective originals, on file, and remaining of record in my office.

In testimony whereof I have caused the Seal of said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this twenty-eighth day of November, in the year of our Lord one thousand eight hundred and fifty-nine, and of the Independence of the said United States the eighty fourth.

KENNETH G. WHITE, [SEAL.]
*Clerk.*

At a stated term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the City Hall, in the City of New York, on Wednesday the twenty-eight day of April, in the year of our Lord one thousand eight hundred and fifty-eight.

Present:

The Honorable Samuel R. Betts, District Judge.

John O. Woodruff, *et al.*
vs. } 14. 118.
William Nelson, *et als.*

1857, March 18th. The libellants file their libel in the words and figures following, to wit:

To the Honorable Samuel R. Betts, Judge of the District Court of the United States, for the Southern District of New York.

The libel and complaint of John O. Woodruff and Robert N. Henning, surviving copartners of James E. Woodruff, deceased, composing the late firm of James E. Woodruff & Co., of said District, merchants, against William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears, and Aaron Cohen, now or late owners of the ship "Maid of Orleans," in a cause of contract, civil and maritime, and thereupon the said John O. Woodruff and Robert N. Henning allege and articulately propound as follows:

First. That the respondents, or some of them, are within the jurisdiction of this court.

Second. That in the month of July, one thousand eight hundred and fifty-four, said ship then lying in the port of New Orleans, and then owned by the respondents, and being under the command of one E. P. Dennis, as master. "Kennett, Dix & Co., of New Orleans, aforesaid, did, on the high seas, and within the ebb and flow of the tide, and within the jurisdiction of this Court, ship, in and on board the said ship, in good order and well-conditioned two hundred and ninety-three barrels of lard; three hundred and nineteen barrels of lard; two hundred and five barrels of lard; two hundred and thirty-three barrels of lard; thirty-eight tierces of lard; twenty-three tierces of lard; seven barrels of lard, and forty-two barrels of lard marked, and numbered as mentioned and set forth in Schedule A. hereto annexed, to be carried in and on board the said ship to the port of New York, and there to be delivered in the like good order and condition (the dangers of the navigation only excepted,) unto James E. Woodruff & Co., or their assigns, he or they paying freight for the said lard, $1 15 per barrel, and $1 53 per tierce, and 5 per cent. primage and average accustomed, and that the said shippers did receive therefor certain bills of Lading, a copy of which is hereto annexed and marked "exhibit A."

Third. That at the same time and place, John O. Woodruff & Co., of New Orleans, aforesaid, did also ship in and on board the said ship or vessel a large quantity of lard, to wit: One hundred and eleven tierces of lard, and one hundred and ninety six barrels of lard, marked and numbered as in the schedule hereto annexed, marked "exhibit B," the same being, and being acknowledged to have been, received on board in good order and well conditioned, to be carried and conveyed in and on board the said ship from the port of New Orleans aforesaid, to the port of New York, and there to wit: at the port of New York to be delivered in like good order and well conditioned (perils of the navigation only excepted) unto James E. Woodruff & Co., or to their assigns, he or they paying freight therefor, to wit: $1 15 per barrel, and $1 53 per tierce, with 5 per cent. primage and average accustomed, and the shippers did receive therefor certain bills of lading, a copy of which is hereto annexed and marked Exhibit B., and to which these libellants crave leave to refer as part of their libel and complaint."

Fourth. That after the shipping of the said several parcels of lard and the delivery of the said several bills of lading, the said bills of lading were forwarded to and received by the said firm of James E. Woodruff & Co., and relying upon the same, did make large advances upon the said lard so shipped as aforesaid.

Fifth. That after the shipping of the said lard, the said ship sailed with the same on board and arrived at the port of New York in the month of August, one thousand eight hundred and fifty-four.

Sixth. That after the arrival of the said ship in the port of New York, the said firm of James E. Woodruff & Co., did demand of and from the respondents or their agents the delivery of the said lard, but the respondents have hitherto neglected and failed to deliver the same to the said firm of James E. Woodruff & Co., or to the libellants in good order and condition.

Seventh. That on the contrary and instead of complying with their said contract, the respondents and their agents took so little and such bad care in the receiving of said lard, in the stowing thereof, in the transportation thereof, in the care and custody, and discharge, and delivery thereof, that a large portion of the same became, and was wholly lost to the said James E. Woodruff & Co., and the libellants, to wit: About sixty thousand pounds, amounting to the sum of six thousand dollars and upwards, and which sum with interest thereon from the fourteenth day of August, one thousand eight hundred and fifty-four, the respondent became liable to pay to the said James E. Woodruff & Co., and to these libellants as survivors.

Eight. That since the said respondent became liable to pay to the said firm of James E. Woodruff & Co., the said sum of six thousand dollars and upwards. The said James E. Woodruff has died, leaving the libellants as his survivors.

Ninth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this Honorable Court in verification whereof, if denied, the libellants crave leave to refer to the depositions and other proofs to be by them exhibited in this cause.

Wherefore the libellants pray that a process in due form of law according to the course of courts of admiralty and of this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the respondent, and that they may be compelled true and proper answer to make to all and singular the premises so articulately propounded, and that this Honorable Court would be pleased to pronounce for the damages aforesaid and for such other and different relief in the premises as shall to law and justice seem meet and to condemn the respondents in costs.

R. M. HENNING.

Sworn to before me this 17th day of
March, 1857.

[SEAL.] ELIAS DUSENBERRY, *Notary Public.*

BEEBE, DEAN & DONOHUE, *Proctors.*
BEEBE, *Advocate.*

(*Endorsed.*)

11. 118 U. S. District Court.

John O. Woodruff, *et al.*
vs.
William Nelson, *et als.*

*Libel.*

**BEEBE, DEAN & DONOHUE,** ***Proctors.***

**Filed 18th March, 1857.**

District Court of the United States for the Southern District of New York.

(Filed the 18th day of March, 1857.)

*Stipulation for Libellant's Costs.*

Entered into pursuant to the rules and practices of this Court.

Whereas a libel was filed in this Court, on the eighteenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, by John O. Woodruff, et al., against William Nelson and others, for the reasons and causes in the said libel mentioned, and praying that process in due form of law may issue against said respondents and the said libellants, and Welcome R. Beebe, surety, parties hereto, hereby consenting and agreeing, that in case of default or contumacy on the part of the libellants, or their surety, execution may issue against their goods, chattels and lands, for the sum of one hundred dollars.

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is bound in the sum of one hundred dollars, conditioned that the libellants above named shall appear and answer to the cause, and to interrogatories, and shall pay all such costs as shall be awarded against them by this Court, or in case of appeal, by the Appellate Court.

JOHN O. WOODRUFF,
per W. R. Beebe, *his attorney.*
W. R. BEEBE.

Taken and acknowledged, this 18th day
of March, 1857, before me,
GEO. W. MORTON, *U. S. Com'r.*

Southern District of New York, *ss.*

Welcome R. Beebe, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the city of New York; that he is worth the sum of two hundred dollars over and above all his just debts and liabilities.

W. R. BEEBE.

Sworn to, this 18th day of March,
1857, before me,
GEO. W. MORTON, *U. S. Com'r.*

Recorded the 18th day of March, 1857.
GEO. F. BETTS, *Clerk.*

The President of the United States of America, to the Marshal of the Southern District of New York, Greeting:

Whereas, a libel has been filed in the District Court of the United States of America, for the Southern District of New York, on the eighteenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, by John O. Woodruff, et al., against William Nelson, Edward S. Dennis, Francis Barlett, Sherburne Sears and Aaron Cohen, owners &c., (damage to cargo, $6000,) in a certain action civil maritime for damage done to cargo of libellants, therein alleged to have occurred to the said libellants, amounting to six thousand dollars, and praying that a warrant of arrest may issue against the said respondents, pursuant to the rules and practice of this Court; Now, therefore, we do hereby empower and strictly charge and command you, the said Marshal, that you take and arrest the said respondents, if they shall be found in your District, and them safely keep, so that you may have their bodies before the said District Court on the twenty-fourth day of March, inst., at the City Hall, in the city of New York, then and there to answer the said libel, and to make their allegations in that behalf; and if the said respondents cannot be found, that you attach their goods and chattels to the amount sued for, and if such property cannot be found, that you attach their credits and effects, to the amount sued for, in the hands of garnishee; and have you then and there this writ, with your return thereon.

Witness the Honorable Samuel R. Betts, Judge of said Court, this eighteenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, and of our Independence the eighty-first.

GEO. F. BETTS, *Clerk.*

BEEBE, DEAN & DONOHUE, *Proctors.*

(Endorsed.)

Vol. XIV, No. 118.

United States District Court.

John O. Woodruff, et al.,
*v.*
William Nelson, et als.

Process in personam.—Returnable 24th March, 1857.

BEEBE, DEAN & DONOHUE,
*Proctors for Libellants.*

Filed, 24th March, 1857.

I hereby depute Powell Mangles to execute the within process.
Dated, March 18, 1857.

AB. T. HILLYER, *U. S. Marshal.*

To the Honorable Samuel R. Betts, Judge of the District Court of the United States, for the Southern District of New York:

The answer of William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen, owners of the ship Maid of Orleans, to the libel and complaint of John O. Woodruff and Robert M. Henning, surviving co-partners of James E. Woodruff & Co., of said district; and thereupon the respondents allege and propound as follows—

First.—That the facts stated in the first article of said libel are true.

Second.—That these respondents admit that in the month of July, 1854, said ship was lying in the port of New Orleans and was owned by these respondents and was under the command of E. P. Dennis, as master, and that lard of the quantity in the second and third articles of said libel, stated, was shipped on board of said ship at New Orleans, aforesaid, by the persons in said articles mentioned, upon the terms therein stated, and that bills of lading were given therefor, of which the schedules marked A and B, annexed to said libel, are copies; but these respondents deny upon information and belief, that the said lard was in good order or well conditioned when shipped on board said ship, but on the contrary, they allege that the said lard was in a liquid state, and not in good order or well conditioned.

Third.—That as the respondents are informed and believe, the said bills of lading were thereafter forwarded to and received by the said firm of James E. Woodruff & Co., in the lifetime of the said Woodruff, but these respondents have no knowledge whether the said Woodruff & Co., made any advances upon the said lard, as alleged in the fourth article of said libel, and they therefore deny that any were so made.

Fourth.—The respondents admit that after the shipping of the said lard the said ship sailed with the same on board, and arrived at the port of New York in the month of August, 1854.

Fifth.—The respondents deny the allegations contained in the sixth and seventh articles of the said libel, and on the contrary allege, that the said lard was duly delivered to the said Woodruff & Co., and was by them accepted and received in the lifetime of the said James E. Woodruff, and that if any of said lard became or was lost to the libellants, it arose from the liquid state in which it was put in the casks and tierces, and the heat of the season, and the leakage from said casks and tierces before and during the voyage, and not by reason of any want of care or neglect of duty on the part of the respondents.

Sixth.—The respondents deny that they became at any time liable to pay to the said firm of James E. Woodruff & Co. any sum whatever, on account of or by reason of the said transactions, but they admit that subsequent to the arrival of the said ship and the delivery of the said lard, the said James E. Woodruff died, leaving the libellants as his survivors.

Seventh.—These respondents allege, that the said James E. Woodruff & Co., in the lifetime of the said Woodruff, and the said libellants since his death, notwithstanding they have accepted and received the said lard, have refused to pay the freight for the same, and there is now due to the respondents, for freight the on the said merchandise, with primage aforesaid, the sum of eighteen hundred and thirty-eight dollars, with interest, from the 14th day of August, 1854.

Eighth.—That all and singular the premises are true and within the jurisdiction of this Honorable Court.

Wherefore these respondents pray that this Honorable Court would be pleased to pronounce against the libel aforesaid to decree the recoupment aforesaid, and such other relief as to justice shall seem meet, and also to condemn the libellants in costs.

WILLIAM NELSON.

Sworn to before me, this 8th day of
April, 1857.
F. C. Bowman, *Notary Public.* [SEAL.]

(Endorsed.)
14, 118, U. S. District Court.
William Nelson and others,
*v.*
John O. Woodruff, &c.
Answer.
Goodman & Jesup, *Proctors for Plaintiffs.*
Filed, April 13, 1857.

District Court of the United States,
For the Southern District of New York.

Filed the fourteenth day of April, 1857.

Stipulation entered into pursuant to the rules and practice of this Court.

Whereas, a libel was filed in this Court, on the eighteenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, by John O. Woodruff, &c., against William Nelson and others, for the reasons and causes in the said libel mentioned, and praying that process in personam may issue against said respondents. And the parties hereto hereby consenting, that in case of default or contumacy on the part of the respondents or their surety, execution for the sum of one hundred dollars may issue against their goods, chattels and lands.

And whereas, also, an answer has been filed in said cause by William Nelson and others, now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators, undersigned, shall be, and each of them is hereby bound in the sum of one hundred dollars, conditioned that the respondents above named shall pay all costs and expenses which shall be awarded against them by the final decree of this Court, or upon an appeal, by the Appellate Court.

WM. NELSON, by
Wm. Nelson, Jr.,
WM. NELSON, Jr.

Taken an acknowledged, this fourteenth
day of April, 1857, before me.
Geo W. Morton,
*U. S. Commissioner.*

Southern District of New York, *ss.*

William Nelson, Jr., party to the above stipulation, being duly sworn, doth depose and say, that he resides in the Southern District of New York, and that he is worth the sum of two hundollars, over and above all his just debts and liabilities.

WM. NELSON, Jr.

Sworn to, this 14th day of
April, 1857, before me,
George W. Morton,
*U. S. Commissioner.*

Recorded the 14th day of April, 1857,
GEO. F. BETTS, *Clerk.*

At a stated Term of the Circuit Court of the United States of America, for the Southern District of New York, held at the City Hall, in the City of New York, on Tuesday, the ninth day of March, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, The Honorable Samuel R. Betts, District Judge.

William Nelson, *et als.*,
*vs.*
John O. Woodruff, *et al.*

John O. Woodruff, *et al.*,
*vs.*
William Nelson, *et als.*,

These causes being called in their order on the calendar, ordered hearing.

Pleadings read.

**Evidence for libellants and respondent, Nelson, *et al.***

| | |
|---|---|
| John Wright, | sworn. |
| Walter S. Meldrum, | " |

**March 10th, continued.**

**Evidence for respondents and libellants, Woodruff, *et al.***

| | |
|---|---|
| Abraham E. Dubois, | sworn. |
| John C. Redmond, | affirmed. |

| | | |
|---|---|---|
| | Joseph N. Benzell, | affirmed, |
| | John H. Wood, | " |
| | Elbert A. Dibble, | sworn. |
| | Edward Curran, | " |
| Deposition of | Thomas J. Dix, | read. |
| " " | Joseph S. Sloan, | " |
| " " | Thomas Dennen, | " |
| " " | Patrick Murphy, | " |
| " " | Jacob Mussina, | " |
| " " | Charles Stanmeyer, | " |

Evidence for libellants and respondents, Nelson, *et als.*

| | | |
|---|---|---|
| Deposition of | Edward Schinkle, | read. |
| " " | George Woodley, | " |
| " " | George R. Beard, | " |
| " " | Cohen Soria, | " |

March 11th, continued,

Evidence for libellants and respondents, Nelson, *et als.*

| | | |
|---|---|---|
| Eeposition of | Edward P. Dennis, | read. |
| | John Wright, | recalled. |
| | Samuel Candler, | sworn. |
| | Francis J. Gerean, | " |
| | James H. Yeadon, | " |
| | John H. Phillips, | " |

Evidence for respondents and libellants, Woodruff, *et al.*

| | |
|---|---|
| George McGrath, | sworn. |
| Fisher A. Fisher, | " |

Mr. Goodman, argues for libellants and respondents, Nelson *et als*

March 12th, continued.

Mr. Goodman continues his argument for Nelson, *et als.*

Mr. Donohue argues for respondents and libellants, Woodruff, *et al.*

Mr. Beebe, " for same parties.
Mr. Benedict, " in reply.

*Cur. adv. vult.*

United States District Court,
Tuesday, March 9th, 1858.

William Nelson, *et als.*, } Goodman & Jesup for libellants,
*vs.*
John O. Woodruff, *et al.*, } Beebe, Dean & Donohue for respond'ts.

John O. Woodruff, *et al*, } Cross Suits,
*vs.*
William Nelson, *et als.*, } Same Counsel.

Pleadings Read.

Mr. Goodman for libellants.

July 11th, 1854, bills of lading, Sch. A., Kennett, Dix & Co., to
respondents or consignees barrels lard.
Cases do.
" " Same date, 1,467 packages lard in both bills.

John Wright, (*sworn.*) In August, 1854, was Delivery Clerk of William Nelson & Co., agents of ship Maid of Orleans; witness superintendent of ship; one thousand four hundred and sixty-seven packages brought in ship, consigned to Woodruff & Co., and delivered to them in this Port between 19th and 22d August, 1854.

*Cross-examined.*—Packages delivered in carts; witness took count of all of them at pier 48, East River, or near it; began delivery early in morning and continued delivery 'till completed; witness was stationed on the dock: part of lard was carted to Bedell & Titus, and part to Jeffreys; some shipped and some placed in storehouse; witness took receipts of delivery, [produces them,] vide p. ; witness told Mr. Jeffreys that he had taken four packages not receipted for, but that matter was afterwards arranged, as all charged for had been delivered to Jeffreys,

Ship carried a general cargo, hides, tobacco, cotton, sugar, wool, &c., [produces cargo book.]

Walter S. Meldrum, (*sworn.*)—Clerk of libellants in 1854, has bill of freight of above goods, $1,838 11.

Libellants rest.

## Wednesday, March 10—(*Continued.*)

## DEFENCE.

Abraham E. Dubois, (*sworn.*)—Carman since 1840, in a large business; know ship Maid of Orleans in 1854: superintended carting the lard in question; saw principal part after it was discharged on dock; it leaked very badly whilst landing from the ship and after it was landed on dock; never saw a cargo discharged in so bad a condition before or since; several packages were entirely empty; a day or two after lard was stored in a cellar witness made a memorandum in writing of its state. He found a good many in cellar entirely empty (eleven,) also, cart took about ten casks empty to Cooper's shop; but may not exceed five, (gives marks of some;) did not register those casks which had not lost more than one-quarter; thinks four Coopers were on the dock coopering for Woodruff & Co.; ship had her Coopers at work on board; did not see any of them working on the dock; had two spring carts used in carting the lard, and handled it carefully; it was carted by his men; black men.

*Cross-examined.*—These cartmen were not licensed. Recollects seeing four coopers working on dock. Lard was rolled up to near head of pier, about one hundred yards, where coopering commenced, and continued to the ship. All he saw came out of the ship. Thinks he was engaged at job three days. The weather was warm, hot as usual in August. Might be called very hot. The memorandum was taken from casks at store house. Front part of the cellar. Was then hardened enough to enable witness to determine quantity in casks. Was three or four days after it was landed. The casks were stowed on their bilges in cellar. A few were standing on their heads. Saw chimes of one or two casks broke in. Could not tell whether they were shrunk. Determined whether lard was out by lifting casks up by hand. Did not open any of them. Were lifted by laborers in warehouse. Does not know whether any lard came out of barrels. It run off them freely whilst carting from ship. Does not know whether from ship or *not.* Witness was not then licensed. His compensation was altogether by piece. Six cents for barrels, and eight cents for this cargo, and that is his standing price for like work. Thinks he carted lard that summer, but cannot say that he hauled any in August of that year, brought from New Orleans. The memorandum in pencil mark on paper, is in his handwriting.

*Re-direct.* Not on board vessel after she went to work. Was before, but did not see lard in hold. Barrels weigh two to two hundred and fifty pounds. Tierces three hundred and fifty to four hundred pounds. Observed very little leakage of lard in cellar. Seemed to be small stains at places, as of a quarter of a pound, where lard had lain and hardened.

John C. Redmond, (*sworn.*) Book-keeper for Woodruff & Co. in 1854. Recollects the cargo of lard in question from Kennett, Dix & Co., and John O. Woodruff & Co. Bills of lading were received by mail prior to arrival of ship. The respondents made advances on the bills of lading, before arrival of lard. (Invoices produced.) About twenty-eight thousand dollars was advanced on the two consignments. Lard then worth nine and a half to ten and a quarter cents per pound. About fifty thousand pounds difference between invoice weight and inspector's returns. The first draft by Kennett, Dix & Co., was drawn on respondents' house direct, on account of shipment. The other was drawn by New Orleans House, (of which respondents were partners.) Was drawn on invoice of lard of that house. Both drafts were prior to arrival of ship. The drafts were accepted absolutely, and passed to credit of drawers at seventy days. The same as if cash had been paid by respondents.

*Cross-examined.*—Was in practice of receiving consignments from the two New Orleans concerns on commission.

Joseph M. Benzell, (*sworn.*) Cooper forty years. Has coopered frequently casks of lard imported from New Orleans to New

York. Coopered this cargo. Was present at times whilst work was doing. Hoops were loose on casks. Condition of cargo was very slack. The worst he ever saw. Widely so. Had two to four men employed coopering, employed by respondents. Worked after landed on dock. Did none on the ship. Witness's work was done. After ship's cooper had finished his work, he worked in hold. Saw his men on the dock in one or two instances. Witness coopered above four hundred casks. Cannot say any were entirely empty, but Witness found some so jammed and broken, that they could not be coopered. Thinks casks were of a good quality, except being slack, *i. e.*, hoops started. Were well bound. Iron. Should not think there is any quality in oil to injure casks, except it will when liquid tend to shrink the casks. It requires a great deal of care. Pressure increases difficulty from heat, *i. e.*, conduces to press open the joints and produce leaking.

*Cross-examined.*—Thinks heat was one of causes of injury to cargo, for the lard thus becomes liquid and endangers leakage. Casks were full wooden bound. Saw on dock leaking out of bilge and at head. Hooped from bilges to head is full bound. More hurt than good to nail hoops. Produces leaking from nail holes. Ten casks were emptied into others on dock, and took them to his shop. Does not know what became of them. The weather was hot at times. Hotter place of stowing lard the less should be the stowage. Three or more casks were pressed flat on side.

JOHN H. WOOD, (*sworn.*) City weigher fifteen years. Has weighed lard frequently. No particular recollection of any arriving in summer. Has however weighed some coming in summer. Mostly imported in winter. Weighed in store house nine hundred or one thousand packages of this cargo. (Puts in his inspection returns.) (Returns of Wood, Exhibit 1.) A portion of cargo leaked largely. Thinks found one hundred and fifty casks very light weight. Fifty, one hundred or more pounds (two hundred pounds some) short. Did not weigh casks entirely empty. Found some so. They are marked on his return. Casks should weigh two hundred and forty pounds to two hundred and eighty pounds. Tierces run three hundred and twenty pounds and three hundred and seventy pounds. Not usual to find more than five to ten pounds wantage in casks of lard.

*Cross-examined.*—Witness weighed lard in November, 1854, in store house, South street. Thinks it was all tierced up in the cellar. Thinks several casks were empty at time. Don't recollect ever before weighing a cargo imported in August. Leakage from loose hoops. (Whether from shrinking of staves or otherwise.) Might be indifferently from the bilge or head.

*Re-direct.*—Saw nothing to indicate any great leaking in the store house. Some grease on the floor.

**ELBERT E. DIBBLE**, (*sworn.*) Weigher twelve years. Cartman seven years. Has weighed and handled lard considerably. Knows this ship. Weighed part of the consignment in 1854. (See Returns, Exhibit 2.) Weighed some at ship, and some at tobacco inspection. It was in a bad condition. Loss heavy. Greater than he had before known. Should consider two to three per cent. ordinary wastage. Five per cent. high in summer, shipment of lard from New Orleans. This was much higher than that. Has weighed lard in all seasons of the year.

*Cross examined.*—Has weighed in August, lard; but cannot say when it arrived. Weighed at warehouses. The wastage would vary according to weather. Means *leakage* by *wastage*. Saw lot imported in a steamer from New Orleans, which came out about as bad as this. Not so much of it, which came from New Orleans in June he believes.

All he weighed in this case at ship. It was in a liquid state, like oil. Has often weighed oil, in that condition. Barrels twenty-one to twenty-three inches at bilge. Tierces twenty-three or twenty-four, to twenty-eight inches.

**EDWARD CURRAN**, (*sworn.*) Cooper twelve years in Barsell's employment, and coopered lard on dock in 1854. Has coopered lard before and since. Considered this lot in bad order. Some casks looses, some staves broken.

### *Commission to New Orleans, April 19th,* 1855.

Thomas A. Dix, (subject to legal exceptions.)

1. Commission and forwarding business.

2. Shipped lard.

3. Lard to be laden on board evening and morning, to avoid heat of sun.

4. Packages were coopered, and were full, and in good order when shipped, and were put on board in cool of day.

6. Some packages remained on levee some days.

8. Casks in good order when shipped.

10. Weather very warm.

*Cross-examined.*—3d Cross.—In connection with direct interrogatory six.

**JOSEPH S. SLOAN.** Produce-broker.

Interrogatory 5. Effect of sun on lard shipped to New Orleans very injurious.

Interrogatory 9. Lard shipped early in morning and late in evening.

Interrogatory 10. Weather unusually hotter in July, 1854, than usual. Packages injured by heat of sun on staves.

THOMAS DENNEN. Cooper.
Interrogatory 3. Packages in good condition and seemed to be full.
Interrogatory 4. Weather very hot in July.
Interrogatory 6. Hauled to vessel early in morning and late in evening.
Interrogatory 7. Lard exposed on levee from Saturday to Monday, lying in tiers.
*Cross-Examined.*—Interrogatory 2. Hoops well secured.
Interrogatory 3. Lard hauled morning and evening.
Interrogatory 5. Saw lard lying on levee on Sunday.

PATRICK MURPHY, Drayman.
Interrogatory Third. Packages appeared full and in good order when hauled to ship. Sent by Kennett & Dix.
Interrogatory Sixth. In good condition. Hauled early in morning.
Interrogatory Seventh. Packages on levee.
*Cross-examined.*
Interrogatory Third. Weather very hot.
Interrogatory Fifth. Lard on levee over night.
JACOB MUSSINA, Produce broker.
CHARLES STANMEYER, Cooper.
Interrogatory Third. Packages well coopered and full except two wanting fifty pounds each; hauled early in morning and late in day.

## DEFENCE.

*Commission to New Orleans, January 9th,* 1856.

EDWARD SCHINKLE, Stevedore.
Interrogatory Third. Stowed the lard evening and morning; taken on board as soon as taken from drays; very hot weather.

GEORGE WOODLEY, Stevedore, (taken same time.)
Interrogatory Sixth. Packages greasy and leaking, and partly empty; weather unusually hot.

GEORGE R. BEARD, Warehouseman.
Interrogatory Fourth. Lard shipped from that warehouse in good order when shipped.
*Cross-examined.*
Interrogatory Third. Packages in good order, except greasy, &c.

COHEN SORIA, Clerk.
Interrogatory Sixth. Laden with dispatch morning and evening.

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Thursday March 11th, continued.

**Edward P. Dennis.** Deposition offered by respondents objected to for want of compliance with article of consignment, or of any notice to Proctors of libellants of filing.

**Welcome R. Beebe,** (*sworn.*) Witness arranged by consent with person in office of Proctors of respondents to examine the deponent at 3½ o'clock, P. M. of 14th inst. in office of witness. Witness requested examination to be postponed, and to be conducted at office of witness at half past three o'clock, P. M.: that was never done, and understands deposition was taken *ex parte* before Commissioner.

*Cross-examined.* Never knew deposition was filed; knew it had been taken.

Ordered that deposition be read, subject to all legal exceptions to regularity, &c. (Objection overruled.)

**Edward P. Dennis**—deposition—master of vessel.

**John Wright,** (again.) Was present all the time of unloading the ship; three or four coopers employed on dock. Woodruff & Co. had two. Attended chiefly to casks marked W with circle (250 to 300); those did not go to warehouse; were sold and reshipped on *Emerald Isle;* ten empty packages were taken off the dock; those were the only empty ones; they had been started; they were of those marked W, with a circle; contents had been emptied into casks of same mark; one was injured apparently by pressure; witness examined it carefully; a thin stave appeared to have been pressed in and lapped; saw no other in that condition. Those casks were removed by a carman not in the employment of Nelson & Son. All the oil not sent in *Emerald Isle* went to Burdett & Curtiss' warehouse; the oil was removed from head of pier; witness was at ship when hatches were opened; ship had general cargo; weather was very hot; hold appeared still hotter; steam came out; witness went between decks to look for a package, but found heat so great witness could not remain below.

There were two coopers belonging to ship; one at gangway, and one in hold attending to discharge of lard; it was discharged rapidly to a warehouse half a block off; the lard was in a liquid state when discharged; saw it run out between the staves.

Is still in employment of libellants; they are agents of a New Orleans line consisting of about twelve ships, with regular sailing days; casks except one were in good order, other than hoops were started in some for purpose of emptying; does not know that any of the packages were entirely empty; packages were slack; does not call it in very good order; saw nothing stowed on lard; thinks nothing was; lard formed a sort of bulkhead up to main hatch from aft; could see upper tier; the casks were tiered up from floor to deck regularly; there was some space between deck or top tier; not wide enough to admit a barrel.

*Cross-examined.* Could not see entirely to bottom of tier, but saw two or three tiers down body of lard; could see to bottom of facing of lard; it was flush on face of lard; there was cargo stowed very near to face of lard; does not know what cargo it was.

*Re-direct examination.* Delivered some parcels of lard during summer in small lots; not exceeding one hundred packages at a time.

SAMUEL CANDLER, (*sworn.*) Marine Surveyor; surveyed this cargo in August, 1854; made seven surveys on cargo and one on hatch; saw the lard, it was stowed in after lower hold in four or five tiers; on bilge and cantling in ordinary way and best; bilge and bilge not so well; witness went below; it was very hot there; barrels looked very fair; but slack, the staves were shrunk, looked all about alike, top casks leaked as well as bottom; made no note of any barrels being more injured than others; attributed state to great heat and shrinking of barrels; surveyed ship; she had appearance of having encountered bad weather; sails, &c.

Has surveyed a great many ships laden with lard; this cargo could not have been stowed better; has surveyed cargoes of lard also in hot summer weather.

*Cross examined.* Supposes his average surveys have been three to five daily; went on board this ship before her hatches were removed and made a survey of them; recollects kind of cargo between decks—tobacco, cotton, wool; does not recollect he was present when hatches were removed from lower hold; is sure he saw lard removed from there; saw no cargo stowed abaft of lard; was there; went down after hatch; thinks space above lard was large enough to stow another tier; saw nothing stowed above the lard so as to touch it; recollects more about this cargo than usual, because there was so much leakage; no distinction between stowage of barrels and casks; was below when packages were discharged; the packages were dunnaged over ballast.

*Re-direct examination.* Made daily, at time of making survey, a memorandum of particulars, not now with him.

FRANCIS S. GEREAN, (*sworn.*) Coopered this cargo for libellants; was occasionally on board ship; whilst cargo was discharging; two coopers under his direction; one at gangway on deck; the other in the hold of ship; witness saw the lard in hold before delivered, the hoops very loose and barrels were leaking from sides and heads; intensely hot below; considerably hotter than on deck; leakage he judges was from shrinking of packages; the lard was liquid; that tends to shrink; staves and hoops become loose; only chime hoops were nailed; packages were well stowed; does not think it possible to stow better; ground tier was damaged as far as he judged; bilges of barrels did not touch; no barrel rested on a single one, but on others; been thirty years familiar with stowing cargoes.

*Cross-Examined.* Has been at sea 1826–7; eight or ten years to New Orleans, and once to Havre; never since been mariner; assisted them in stowing vessels; thirteen or fourteen years ago; his men coopered tobacco and sugar; coopered about one hundred and fifty packages of lard; worked three days on lard; was at ship first day they worked on lard; not at other days; was in hold before lard was discharged; other cask goods were stowed near together; not so as to form common bulkheads; no recollection of dunnage except under ground tier.

*Re-direct examination.* Not aware of dunnaging above ground tier, or between.

*Re-cross examination.* Pressure will tend to increase leak of lard liquified; wishes to state that he regards *bilge* and *cantling* to be the same as that of Mr. Yeadon, to be *bilge* and *header.*

JAMES H. YEADON, (Expert,) (*sworn.*) Never saw cargo; been stevedore sixteen to seventeen years; accustomed to load and discharge lard shipped from Southern ports; this cargo was well stowed; could not have been better in ship carrying other freight; according to description given by Capt. Candler; four or five tiers not too high.

*Cross-examination.*—Bilge and bilge, bad storage with middle dunnage, so also, when bilge and cantling stowed, dunnage is used under chime or in liquor barrels, or lard brought in liquid state, (describes bilge and bilge, and bilge and header, and bilge and cantling.)

*Re-direct examination.*—Ground floor requires dunnage and upper tiers. Some in upper tiers, but not so much—by many, all the methods are termed indifferently *bilge and header,* and bilge and cantling.

*Re cross-examination.*—Hoops are always dunnaged in stowing.

JOHN B. PHILLIPS, (expert,) *sworn.* Stevedore eleven to twelve years. Lard is considered liquid goods, and is stowed by itself in ship, and is stowed *bilge and cantling, and bilge and bilge—bilge and header.* You cannot stow bilge and headers very well unless vessel is filled full; *bilge and half bilge* is a good way, but consumes room.

*Cross examination.*—Does not dunnage *bilge and header;* must chock or dunnage in stowing *bilge and cantling.*

*For Respondents.*

GEORGE MCGRATH, *sworn*: Deals in lard, buyer and seller, and refiner. In November, 1854, witness sold fifteen hundred barrels, as a broker of that cargo—as he understood in warehouse.

The packages were ordinary western lard—pig's—some not full. If packages good like these, there ought to be not more than five per cent. for leakage in hot weather and in liquid state—but more pressure, the more leakage. Lard in hot weather is kept in cellars, and he considers three tiers as high as prudent; as it tends to break the casks.

The loss on this lot was 50 per cent., larger than he ever knew, has seen a great many lots.

*Cross examination.*—No personal knowledge that this was libellant's; the lard was in hard state when he first saw it; has seen lard in liquid state, not as if melted by fire; made so by heat in holds of ship. This was fair lard, not prime all of it, but a good average lot. Supposes method of storage to be same in warehouse as on ship. Wastage of 5 per cent., he speaks of is of oil coming in here in summer seasons, and very hot weather, and sold on dock as it comes out of ships from New Orleans.

FISHER A. FISHER, sworn: Dealer in lard, grease and tallow: has dealt very largely in oil for several years; has received it all temperatures of weather. Lard brought in vessels in hot weather will naturally leak ten pounds out of a package. Not usual to have wastage over five pounds per barrel—(difference of weight of barrel and cask, about seventy-five pounds.) Stores lard in cellar three to five tiers Lard of reasonable quality in a good package, will leak only about the same as oil. No reason for any greater wastage; does not think putting liquid lard into barrels would tend to produce leakage; not so much as pressure of barrels upon each other, in barrels stowed five or six tier high; calculate no loss in winter; and in hot weather not to exceed five or ten pounds to package. A barrel filled full of cold oil will leak more or less on liquifying in the barrel; the fuller the barrel and greater the heat melting the lard, the greater will be the leakage, owing to the pressure on staves.

*Exhibit No.* 13. *Ship Register.*

Mr. Goodman, argues the cause for Libellants.
Mr. Donohue, " " Respondents.
Mr. Beebe, " " "
Mr. Benedict, " " Libellant.

*Cur. adv. vult.*

The people of the State of New York, to Charles B. Singleton Esq.

Know ye, That we, with full faith in your prudence and competency, have appointed you commissioner, and by these presents do authorize you to examine George R. Beard, Edward Schinkle, George Woodley and Cohen Soria, as witnesses in a cause

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pending in the Court of Common Pleas, for the city and county of New York, wherein William Nelson, Edward S. Dennis, Francis Burnett, Sherburne Sears and Aaron Cohen are plaintiffs, and James E. Woodruff, John O. Woodruff and Robert R. Henning are defendants, on the part of the plaintiffs on oath, upon the interrogatories annexed to this commission, and to take and certify the depositions of the witnesses and return the same according to the directions hereunto annexed.

Witness, J. P. Ingraham, Esq., first judge of said Court of Common Pleas, at the City Hall, in the city of New York, the 26th day of December, one thousand eight hundred and fifty-five.

BENJ. H. JARVIS,
*Clerk of Common Pleas.*

R. GOODMAN, *Plaintiffs' Attorney.*

*Direction for Executing the Commission.*

The person to whom such commission shall be directed, or any one of them, unless otherwise expressly directed therein, shall execute the same as follows:

1. They, or any one of them, shall publicly administer an oath to the witnesses named in the commission, that the answer given by such witnesses to the interrogatories proposed to them, shall be the truth, the whole truth, and nothing but the truth.

2. They shall cause the examination of each witness to be reduced to writing, and to be subscribed by him and certified by such of the commissioners as are present at the taking of the same.

3. If any exhibits are produced and proved before them, they shall be annexed to the depositions to which they relate, and shall in like manner be subscribed by the witness proving the same, and shall be certified by the commissioners.

4. The commissioners shall subscribe their names to each sheet of the depositions taken by them; they shall annex all the depositions and exhibits of the commission, upon which their return shall be endorsed; and they shall close them up under their seals, and shall address the same, when so closed, to the clerk of the court from which the commission issued, or to the clerk of the county in which the venue shall be laid, as shall have been directed on the commission, at his place of residence.

5. If there is a direction on the commission to return the same by mail, they shall immediately deposit the packet, so directed, in the nearest post office.

6. If there be a direction on the commission to return the same by an agent of the party who sued out the same, the packet so directed shall be delivered to such agent.

The above is an extract from the Revised Statutes of the State of New York, (4th Ed.) vol. 2, page 639, relating to the taking of testimony out of the State.

This commission, when executed, is to be returned to the Clerk of the Court of Common Pleas, in and for the city and county of New York, care of R. Goodman, Esq., New York city.

The execution of this commission appears in certain schedules hereunto annexed.

CHARLES B. SINGLETON, *Com'r.*

*Instructions to Commissioners.*

Annexed to the commission is an extract from the Statutes of the State of New York, relative to the taking of testimony out of the State, which extract is directed by law to be annexed to the Commission. But as it does not comprise everything necessary to be attended to by the Commissioners, they are requested to observe the following more ample Instructions:

I. All the Commissioners named in the Commission, should have notice of the time and place of executing it; and if any of them do not act, let the fact that they were notified, or could not be notified, and the reasons for their not acting, be stated.

II. The Commission must be executed by the Commissioner named therein.

III. The acting Commissioner will examine the witnesses separately, after publicly administering to them the following oath or affirmation:

"You do swear, that the answers which shall be given by you to the interrogatories proposed to you, shall be the truth, the whole truth, and nothing but the truth. So help you God."

The oath shall be administered (except in cases hereinafter mentioned) by the witness laying his hand upon, and kissing the Gospels.

But if the witness shall desire it, he shall be permitted to swear in the following form: "You do swear in the presence of the ever living God," and while so swearing, he may or may not hold up his hand, in his discretion.

Or if the witness shall declare that he has conscientious scruples against taking an oath, or swearing in any form, he shall be permitted to make his affirmation in the following form: "You do solemnly, sincerely, and truly declare and affirm," omitting the words, "So help you God."

IV. The general style or title of the depositions must be drawn up in the following manner:

"Deposition of witnesses, produced, sworn (or affirmed) and examined, the day of in the year one thousand eight hundred and at under and by virtue of a Commission issued out of the in a certain cause therein depending and at issue between defendant as follows:

A. B. of (insert his place of residence and occupation) aged years and upwards, being duly and publicly sworn (or affirmed) pursuant to the directions hereto annexed, and examined on the part of the doth depose and say, as follows: First—To the first interrogatory, he saith, &c. [Insert the witness' answer.] Second—To the second interrogatory he saith, &c., and so on throughout.

If he cannot answer, let him say that he knoweth not.

V. If there be any cross-interrogatories, the witness will go on thus:

First—To the first cross-interrogatory, he saith, &c., and so on throughout.

VI. When the witness has finished his deposition, let him subscribe it, and the acting Commissioner will certify as follows:

Examination taken, reduced to writing, and
by the witness subscribed and sworn to,
this day of 18 before
*Commissioner.*

VII. If any papers or exhibits are produced and proved, they must be annexed to the depositions in which they are referred to, and be subscribed by the witness, and be endorsed by the acting Commissioners, in this manner:

"At the execution of a Commission for the examination of witnesses, between defendant this paper writing was produced and shown to (insert the witness' name) and by him deposed unto at the time of his examination, before
*Commissioner.*

VIII. The acting Commissioners will sign their names to each half sheet of the depositions and exhibits.

IX. If an interpreter is employed, one of the Commissioners will administer to him the following oath, and certify thereto:

"You do solemnly swear, that you will truly and faithfully interpret the oath and interrogatories to be administered to a witness now to be examined, out of the English language into the language, and that you will truly and faithfully interpret the answers of the said thereto, out of the into the English language."

Let the depositions be subscribed by the interpreter as well as by witness, and certified by the acting Commissioners, as follows:

Examination taken, reduced to writing, sub-
scribed by the witness and by the sworn
interpreter, and sworn to by the witness,
this day of 18 before
*Commissioner.*

X. The Commissioner will make return on the back of the Commission by endorsement, thus:

"The execution of this Commission appears in certain schedules hereunto annexed."
*Commissioner.*

XI. The depositions and exhibits (if any) must be annexed to the Commission, and then the Commission, the directions, the interrogatories, cross-interrogatories, depositions and exhibits, must be folded into a packet and bound with tape. The acting Commissioners are to set their seals at the several meetings or crossings of the tape, endorse their names on the outside, and direct it thus:

To Esquire,
Clerk of the
at

XII. When the Commission is thus executed, made up and directed, it must be returned in the manner specified in the direction of the Commission, if there be any.

XIII. If there be no direction on the Commission specifying the manner in which it is to be returned, then it must either be delivered to the Court by one of the acting Commissioners personally, or else be forwarded by some person coming to this place, and who must be liable, on his arrival, to make oath, before one of the Judges or the Clerk of the Court:

"That he received the same from the hands of A. B., one of the Commissioners, and that it had not been opened or altered since he so received it."

XIV. In case of returning the Commission by mail, it is to be deposited by one of the acting Commissioners in the nearest post-office, he making the following endorsement thereon:

"Deposited in the post-office, at
this day of 18 , by me,
*Commissioner.*"

In case of returning the Commission by a vessel, it is to be deposited by one of the acting Commissioners in the letter bag of such vessel, he making upon the Commission the following endorsement:

"Deposited in the letter bag of the
now lying at and bound for the
port of New York, this day of
18 , by me
*Commissioner*

The Commissioners are requested to be very careful to observe the foregoing instructions, as the smallest variance may vitiate the execution of the Commission.

If the Commission be returned by an agent, let him be instructed to call, on his arrival at this place, upon who will direct him as to its delivery.

New York Common Pleas.

Interrogatories to be administered to Edward Schinkle, George Woodley, George R. Beard and Cohen Soria, witnesses to be produced, sworn, and examined on behalf of the plaintiffs in this ac-

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tion now pending in the Court of Common Pleas in and for the City and County of New York, wherein William Nelson and others are plaintiffs, and James E. Woodruff and others are defendants, before C. B. Singleton, a Commissioner, under and by virtue of a commission hereto annexed.

First Interrogatory. What is your name, age, and occupation, and where do you now reside?

Second Interrogatory. Do you know the parties to this suit, and which of them?

Third Interrogatory. (To all except Mr. Beard and Mr. Soria.) Do you know the ship "Maid of Orleans," and were you, in July, or at any time in the summer of 1854, and at what time, employed about or cognizant of any packages of lard being shipped on board of her for her voyage to New York? If yea, state the quantity of lard, number of packages, &c., when and how taken on board, its condition, and all the particulars attending the shipment and putting on board the vessel?

Fourth Interrogatory: For whom was the lard shipped, and by whom?

Fifth Interrogatory. (Addressed to Messrs. Beard and Soria.) What connection had you with the said lard? to whom, and by whom was it shipped? Where was it before shipment? What was the condition of it at that time? How was the temperature at New Orleans in July, 1854? How, as compared with other seasons? What is the usual condition of lard in the summer season?

Sixth Interrogatory. (To all the witnesses.) Do you know of any other matter or thing touching the matters and things inquired of, that may tend to the benefit or advantage of the plaintiffs herein, and if yea, state the same fully and at large, as if you had been particularly interrogated thereto.

R. GOODMAN,
*Plaintiffs Attorney.*

The foregoing direct interrogatories are hereby settled by consent.

R. GOODMAN,
*for Plaintiffs.*
DUSENBERRY & VAN WAGENEN,
*for Defendants.*

(Endorsed.)
N Y. Common Pleas.
William Nelson, *et als.*,
*vs.*
James E. Woodruff, *et al.*

*Interrogatories and notice.*

Please take notice that the interrogatories, of which within is a copy, will be presented for settlement to one of the judges of this

Court at Chambers thereof, at the City Hall, in the City of New York, on the 22d of December, inst., at 10 A. M., of that day.

Yours, &c.,

R. GOODMAN,

*for Plaintiffs.*

To Dusenberry & Van Wagenen, Esqs.,

*for Respondents.*

N. Y. Common Pleas.

Cross-Interrogatories to be administered to Edward Schinkle, George Woodley, George R. Beard, and Cohen Soria, witnesses to be produced, sworn and examined on behalf of the plaintiffs in this action, now pending in the Court of Common Pleas in and for the City and County of New York, wherein William Nelson *et als.*, are plaintiffs, and James E. Woodruff, *et al.*, defendants, by way of cross-examination.

First Cross-Interrogatory. (To all except Beard & Soria.) If, in answer to the third direct interrogatory, you answer that you were employed about, or cognizant of any packages of lard being shipped on board the "Maid of Orleans," on the voyage referred to, state who employed you? how you knew that the lard was shipped? what marks were on the packages? whether you were present when it was taken on board? Did you make at the time any examination of the packages, or any memorandum of what you have stated in relation to said shipment, and the manner in which it was made, and the condition, number and marks of the packages of lard? State how long you have been in the employ, or connected with those who employed you in relation to this shipment of lard? Was there any matter or thing in connection with this shipment which cause you to remember distinctly the matters which you have stated, or is your recollection imperfect?

Second Cross-Interrogatory. How do you know for whom the lard was shipped? State your means of knowledge.

Third Cross-Interrogatory. (Addressed to Beard and Soria.) What connection in business have you with the plaintiffs in this suit, or the agents of the "Maid of Orleans," and how long have you been so employed? State how you know the condition of the lard before shipment, and where it was before it was shipped? Did you examine the lard or the packages at the time you saw them before shipment? Were they opened? If yea, state how many were opened, and how particularly you examined them? What were the marks upon them?

Fourth cross-interrogatory. (To all the witnesses.) Do you know any other matter or thing of benefit or advantage to the defendants? If yea, state particularly.

DUSENBERRY & VAN WAGENEN,

*Defendants' Attorneys.*

I consent to the settlement of the cross-interrogatories herein, as above.

R. GOODMAN,
*Plaintiff's Attorney.*

Depositions of witnesses produced, sworn and examined the 9th day of January, in the year one thousand eight hundred and fifty-six, at my office, the undersigned Commissioner, No. 78, on Camp street, in the building situate on the corner of Camp and Natchez streets, in the city of New Orleans, Louisiana, under and by virtue of a commission issued out of the Court of Common Pleas for the city and county of New York, hereto annexed, in a certain cause therein depending and at issue between William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen, plaintiffs, and James E. Woodruff, John O. Woodruff and Robert M. Henning, defendants, as follows:

EDWARD SCHINKLE, a resident of the aforesaid city of New Orleans, aged forty-eight years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, doth depose and say as follows:

First.—To the first interrogatory, he saith: His name is Edward Schinkle, and his occupation is that of stevedore, and he is about forty-nine years old, and he resides in the city of New Orleans, Louisiana.

Second.—To the second interrogatory, he saith: He only knows Aaron Cohen, Edward S. Dennis and Sherburne Sears.

Third.—To the third interrogatory, he saith: He knows the ship "Maid of Orleans," and he was employed in July, 1854, as stevedore in loading said vessel. And he knows that a large quantity of lard was shipped on her in that month for the voyage to New York from this port. As stevedore he had this lard put on board said vessel; he thinks there were about fourteen hundred barrels and tierces—there might be more; he is not certain as to the exact quantity. This lard was taken on board said vessel in the evening and the morning as fast as it could go down the hatchway. The packages containing said lard were very greasy when the same were taken on board said vessel. This lard was properly and carefully handled by those employed by him to take it on board the said vessel. This lard was promptly taken on board as soon as it came off the drays. It was not exposed to the sun. There were about fifteen or twenty barrels of this lard leaking, which he caused to be rolled to one side, and put under tarpaulins to be coopered, and as soon as it was coopered by the shippers' employees it was taken on board. This lard appeared to be in a liquid state, which he discovered by rolling the barrels, and also from that which came out of the leaking packages.

Fourth.—To the fourth interrogatory, he saith: He knoweth not.

Sixth.—To the sixth interrogatory, he saith: This lard was stowed in the after end of the ship by itself, and further he saith not, except that he thinks this lard was stowed in the best place for it in the ship, and that at the time it was taken on board the weather was hotter than he had ever known it during a residence of twenty-five years in this city. And that he was present during the whole time this lard was being taken on board.

First Cross-Interrogatory, he saith: He was employed by the master of the vessel as stevedore to load the vessel. He knows the lard was shipped, because he saw it put on board the vessel. He cannot tell what were the marks on the packages. He says he was present when all of it was taken on board. He did not at the time make any examination of the packages, except as he noticed them while being rolled on board, and those fifteen or twenty leaking which he spoke of in his direct examination or answers to the direct interrogatories. He made no memorandum of what he has stated in relation to said shipment, and the manner in which it was made, and the condition and marks of the said packages of lard, but he made a memorandum of the number by which he was paid for the stowage of the vessel. He has been employed by the master of said vessel about two or three years as stevedore, during which time he has been master of said vessel. There was no matter or thing in connection with the shipment of this lard which causes him to remember distinctly the matter which he has stated, but his recollection of what he has stated is nevertheless clear and distinct.

Second Cross-Interrogatory.—To the second cross-interrogatory he saith: He does not know for whom the lard was shipped, and has stated nothing on that point.

Fourth Cross-Interrogatory.—To the fourth cross-interrogatory, he saith: He knows nothing not already stated that would be of any benefit to the defendants, and further he saith not.

EDWARD SCHINKLE.

Examination taken, reduced to writing,
and by the witness subscribed and
sworn to this 9th day of January,
1856, before me, the undersigned
Commissioner.

Charles B. Singleton,
*Commissioner.*

And also at the same time and place, appeared before me, George Woodley, a resident of the city of New Orleans, Louisiana, aged about thirty-seven years, and upwards, being duly and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, doth depose and say as follows:

First.—To the first interrogatory, he saith: His name is George Woodley; age, upwards of thirty-seven years; occupation, is foreman for a stevedore, and he now resides in the said city of New Orleans.

Second.—To the second interrogatory, he saith: He knows Aaron Cohen, S. Sears, E. S. Dennis and John O. Woodruff, by sight; and none of the others does he know, even by sight.

Third.—To the third interrogatory, he saith: He knows the ship Maid of Orleans; he was employed as foreman of the stevedore's men, in July, 1854, while said vessel was being loaded, and he recollects the lard going into said vessel. This was the voyage from this city (New Orleans) to New York. He says there were from one thousand to fifteen hundred packages of lard taken on board said vessel for said voyage. These packages were taken on board said vessel in the month of July, 1854, as already stated. It was taken on board in the usual way, as soon as it was rolled off the drays. Some of this lard was very greasy and dirty; some of the packages were leaking, and some of the packages half out; all of it was more or less dirty and greasy. The stage on which this lard was rolled to the vessel was saturated with grease, proceeding from the packages. He thinks he saw some twenty or twenty-five packages which appeared to be half out; he was notified of this fact by the men who were employed in putting it on board the vessel. All this lard appeared to be more or less liquid, which he ascertained by handling the packages. This lard was properly and carefully handled and stowed. It was all stowed in the after end of the ship, by itself; there was nothing on the top of it.

Fourth.—To the fourth interrogatory, he saith: He knoweth not.

Sixth.—To the sixth interrogatory, he saith: While this lard was being shipped, the weather was unusually hot. The lard, after it was taken to the ship, was not exposed to the sun. He was very much annoyed by the captain of the vessel, who was urging him "to get it on board, and not let it be exposed to the sun, as there were a few barrels that could not be taken on board immediately, when the drays would bring down as much as thirty or forty barrels at a time. He was annoyed by the master, because he was taking the load on board as fast as it could go down the ship's hatchway. Not more than fifteen minutes were necessary to *take in* thirty or forty barrels of lard.

First cross-interrogatory.—To the first cross-interrogatory, he saith: He was employed by Mr. Schinkle, the preceding witness, and he knows the lard was shipped, because he saw it taken on board the ship. He cannot say what marks were on the packages, because he took no notice of them. He was present part of the time while it was being taken on board. He did not make any memorandum of what he has stated. He made an examination of the packages, in order to ascertain their condition, and when he found any which needed coopering, he had them put aside for that purpose. He has been in the employ of Mr. Schinkle for five years, and is still in his service as foreman. He says there is no matter or thing, in connection with this shipment, which causes him to remember distinctly the matters he has stated, except the trouble he had with it. He recollects distinctly what he has stated.

Second Cross-Interrogatory.—To the second cross-interrogatory, he saith: He knoweth not.

Fourth Cross-Interrogatory.—To the fourth cross-interrogatory, he saith: He knoweth not; and further deponent saith not.

GEORGE WOODLEY.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this the 9th day of January, 1856, before me.

CHARLES B. SINGLETON,
*Commissioner.*

And also on this, the 14th day of January, 1856, at the same place, appeared before me, the undersigned Commissioner, GEORGE R. BEARD, a resident of the city of New Orleans, Louisiana, aged upwards of thirty-eight years of age, being duly and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, doth depose and say as follows:

First.—To the first interrogatory, he saith: His name is George R. Beard; his age is forty years; occupation, a warehouse keeper, and he resides in the city of New Orleans, Louisiana.

Second.—To the second interrogatory, he saith: He knows Nelson, Sears, John O. Woodruff, and Aaron Cohen, but does not know the others.

Fourth.—To the fourth interrogatory, he saith: The lard was shipped from the warehouse of George R. Beard & Co., of which firm deponent was a member. It was shipped by Kennett, Dix & Co., of this city. He does not know for whom it was shipped, and he does not know to whom it was shipped.

Fifth.—To the fifth interrogatory, he saith: The lard was stored with the firm of George R. Beard & Co., of which he was a member. Does not know to whom it was shipped. It was shipped by Kennett, Dix & Co., as already stated. The lard before shipment was in our warehouses, where it had been stored from fifteen to forty days. The lard at the time of shipment was in apparently good order. As all of it had been coopered before it was shipped. The weather was very warm, in July, in 1854, in this city. The weather was much warmer in 1854, than previous seasons. The condition of lard in the summer season depends on the quality. Some lard will keep hard during the entire summer if kept in a proper place. Inferior lard will run very much. Superior lard will not waste or leak much if kept in a proper place. All lard in the summer time will lose more or less. He does not know the quality of the lard above alluded.

Sixth.—To the sixth interrogatory, he saith: At the time this lard was in our store, there were about seven or eight thousand packages of lard in our warehouses, from which there was considerable leakage, but he cannot say that it came from this lot of lard. Warm weather effects lard injuriously, when being shipped from one port to another.

Second Cross-Interrogatory. To the second cross-interrogatory, he saith: He says he knows the lard was shipped by Kennett, Dix & Co., because they were the parties who stored it with his firm aforesaid.

Third Cross-Interrogatory. To the third cross-interrogatory, he saith: He has no connection in business with any of the parties or their agents, and has had none. He knows all he has stated concerning its condition, because it was in his warehouses, and shipped from them. He examined the packages before shipment, but did not examine the lard itself. The packages seemed to be in good order, except being greasy as all lard packages are at that season of the year. He thinks the packages were not opened. There were four different marks on the lard, viz.: B. & P. L E M P or Lemp—M & C. and H, these are the marks by which we received them, but he cannot say that they were shipped by the same marks.

Fourth Cross-Interrogatory. To the fourth cross-interrogatory, he saith: He knoweth not.

GEORGE R. BEARD.

Examination taken, reduced to writing, and by witness subscribed and sworn to, this the 14th day of January, 1856, before me.

CHARLES B. SINGLETON,
*Commissioner.*

And also on this the 15th day of January, 1856, at the place mentioned in the caption of this testimony appeared before me, the undersigned commissioner, Cohen Soria, a resident of the city of New Orleans, Louisiana, aged upwards of twenty-five years, who being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, doth depose and say, as follows:

First.—To the first interrogatory, he saith: His name is Cohen Soria, occupation clerk. Age twenty-five years, and resides in the city of New Orleans, Louisiana.

Second.—To the second interrogatory, he saith: He knows all the parties to this suit, except James E. Woodruff, Francis Bartlett and Robert M. Henning.

Fourth.—To the fourth interrogatory, he saith; He made the contract for the shipment of said lard from this port to New York, he acted for the agents of the ship "Maid of Orleans," in making said contract. The lard was shipped by Kennett, Dix & Co., that is our lot, and consigned to Woodruff & Co., New York. Another lot at the same time and on the same vessel, was shipped by John O. Woodruff & Co., and consigned to the same parties. Part of the lard was previous to shipment in the warehouses of George R. Beard & Co.; that is the lot of Kennett, Dix & Co. He does not know where the other was stored or shipped from. He does not know what its condition was at the time of shipment, or previous thereto. The weather was very warm in New Orleans, in July, 1854. It (the weather) was much warmer than during other seasons. He does not know what the usual condition of lard is, in the summer season, because he has never dealt in lard, and has never had occasion to notice it.

Sixth.—To the sixth interrogatory, he saith: He was frequently at the ship while she was loading for this voyage, and he knows the lard went down evening and morning, and was put on board with dispatch, and was not exposed to the heat of the sun; and further he knoweth not.

Second Cross Interrogatory. To the second cross-interrogatory, he saith: He knows for whom the lard was shipped, from the face of the bill of lading.

Third Cross-Interrogatory. To the third cross interrogatory, he saith: He was clerk for the agent of the ship "Maid of Orleans," and had been in his employ for nine or ten years, and is still in his employ; his name is Aaron Cohen; he did not know what the condition of the lard was before shipment, but he knows one lot was stored in the warehouses of George R. Beard & Co., because he was so informed by George R. Beard; he never saw the lard before the same was taken to the said ship; he saw the lard at the ship when taken there for the purpose of being taken aboard; he did not examine the lard, except so far as to discover that the outside of the packages looked greasy, this he discovered in passing, and casually looking at the lard; the packages were not, to his knowledge opened; he did not notice the marks particularly, and if he ever knew them he has forgotten them.

Fourth Cross-Interrogatory. To the fourth cross-interrogatory, he saith: He knoweth not.

COHEN SORIA.

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Examination taken, reduced to writing, and by the witness subscribed and sworn to, this the 15th day of January, 1856, before me.

CHARLES B. SINGLETON,
*Commissioner.*

I, Charles B. Singleton, the undersigned Commissioner, do hereby certify that I caused Edward Schinkle, George Woodley, George R. Beard, and Cohen Soria, witnesses in the annexed commission named, to appear at my office in the building, number 78 Camp street, located on the corner of Camp and Natchez streets, in the City of New Orleans, on the days named in the caption to the testimony of each witness; and after publicly administering to each of said witnesses the oath required in the directions accompanying the commission hereto annexed, couched in the following words: "You do swear that the answers which shall be given by you to the interrogatories propounded to you, shall be the truth, the whole truth, and nothing but the truth, so help you God." The said oath was administered to each of said witnesses, by each laying his hand upon and kissing the Gospels. That I then proceeded to examine each witness separate and apart from every person by reading in a clear and distinct manner, each interrogatory and cross-interrogatory to each witness, and his answer thereto I immediately in his presence, and without turning aside to anything else, reduced to writing with my own hand; and after the answers were thus reduced to writing, I read the same in a clear and audible voice to each witness, who agreed to the same as being the true and correct answers given by him and taken down by me as aforesaid: and I caused each of said witnesses to sign with his own hand, his answers thus given. I then made up the testimony, annexed the same to the accompanying commission, directions and interrogatories, and cross-interrogatories, preparatory to sending the same, thus made up by mail to the Court from whence said commission issued in pursuance to the directions thereto annexed.

In witness whereof, I have hereunto set my hand and seal, this the 15th day of January, 1856.

CHARLES B. SINGLETON, [SEAL.]
*Commissioner.*

(Endorsed.)
Woodruff *vs.* Nelson *et als.*
Testimony of plaintiffs on commission.
R. GOODMAN.

Interrogatories to be administered to Charles Stanmeyer, Thos. Dernan and Patrick Murphy, witnesses to be produced, sworn and examined on behalf of James E. Woodruff and others, defendants in a certain suit now pending in the Court of Common Pleas in and for the City, County and State of New York, before the

Judges thereof, at the suit of William Nelson and other plaintiffs, before C. B. Singleton, Commissioner, under and by virtue of a commission hereto annexed.

First Interrogatory.—What is your name, age and occupation, and where do you reside?

Second Interrogatory.—Do you know the parties to this suit? If yea, how long have you known them?

Third Interrogatory.—Do you know the ship "Maid of Orleans," and were you employed to cooper any barrels or tierces of lard that were shipped on board said ship in the month of July, 1854; by whom were you employed; at what time; in what condition were the said packages at the time; how were they coopered by you, if coopered at all, and were said packages full or not at that time? State fully and particularly.

Fourth Interrogatory.—Was the weather at that time (July, 1854,) very warm or otherwise, and at what time in the day was said lard handled or moved?

Fifth Interrogatory.—Were you in the month of July, 1854, employed in hauling or draying a lot of lard, in barrels and tierces, to the ship "Maid of Orleans," then lying at the city of New Orleans, and referred to in this suit? If yea, state by whom you were employed, what amount of lard was drayed, and by whom were you assisted in the work. State fully and particularly.

Sixth Interrogatory.—What was the condition of these barrels and tierces at the time they were removed or handled by you, and at what time of the day the same were hauled to the vessel, whether morning or afternoon, or both, and how long a time each day were you so occupied in hauling them, and where were they left when taken from the drays. State fully and particularly.

Seventh Interrogatory.—Do you know what was done with said packages of lard when taken to the vessel by the drays? If you say you do, then state whether they were immediately taken on board the ship "Maid of Orleans," or not, and if not, how long did they remain on the levee before they were placed on board the ship? State fully and particularly all that you know in answer to the question.

Eighth Interrogatory.—Do you know who stowed away this lard on board the ship "Maid of Orleans?" If yea, state by whom it was done, how long a time was occupied in stowing the same, in what manner it was done, whether in tiers or not, and how high was it tiered—how dunnaged. State fully and particularly your knowledge of the matters herein referred to.

Ninth Interrogatory.—Do you know any other matter or thing touching the matters in question that may tend to the benefit or advantage of the defendants? If yea, declare fully and at large, as if you had been particularly interrogated thereto.

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To Thomas J. Dix,
Joseph Sloan,
Jacob Mussina.

First Interrogatory.—What is your name, age and business, and where is your said business located? Where do you work?

Second Interrogatory.—Do you know the defendants in this suit? If yea, how long have you known them, and did you at any time in the month of July, 1854, ship on board the ship "Maid of Orleans," consigned to the defendants, any lard? And if yea, state the time of such shipment, and the number of packages so shipped.

Third Interrogatory.—Did you make the freight engagement or contract for the shipment of said lard? If yea, state what were the terms and conditions thereof; state fully and particularly, and state with whom the contract was made.

Fourth Interrogatory.—Do you know what was the condition of the packages containing the said lard when delivered to the "Maid of Orleans," at the time of said delivery? At what time of the day were said packages delivered upon the levee, and whether or not said packages were full when delivered on the levee?

Fifth Interrogatory.—For how long a period of time, and how extensively have you been engaged in buying, selling and shipping lard, and what effect does the heat of the sun in your climate in the month of July, have upon packages of lard exposed in the open air to the rays of the sun during the day?

Sixth Interrogatory.—Do you know whether the packages of lard shipped by the "Maid of Orleans," were taken on board the ship as soon as hauled upon the levee? And if you answer that they were not so taken on board, state how long they remained on the levee, after they were delivered there, before being taken on board, and what quantity was exposed to the sun by reason of not being immediately put on board the vessel. State fully and particularly your knowledge, and means of knowledge, in answer to this question.

Seventh Interrogatory.—Were the packages of lard coopered previous to their shipment? If yea, state by whom it was done, and in what manner it was done.

Eighth Interrogatory.—Do you know in what part of the Maid of Orleans the said lard was stowed, and in what manner, and by whom it was stowed; whether it was tiered, and if so, how high it was tiered?

Ninth Interrogatory.—Do you know what is the custom in the city of New Orleans during the warm season, in shipping lard, as to the parts of the day in which it is done, if there is any custom,—whether it is taken on board the vessel immediately upon its delivery on the levee, to avoid exposure to the sun? State fully and particularly.

Tenth Interrogatory.—What was the state of the weather in July, 1854, in New Orleans, as to heat? State fully and particularly.

Eleventh Interrogatory.—Do you know any other matter or thing touching the matters in question, that may tend to the benefit or advantage of the defendants herein? If yea, declare fully and at large as if you had been particularly interrogated thereto.

New York Common Pleas.

Cross-interrogatories to be administered to Charles Stanmeyer, Thomas Dernan and Patrick Murphy, witnesses for the defendants, by way of cross-examination in a suit in the Court of Common Pleas in and for the City and County of New York, in which William Nelson and others are plaintiffs, and James E. Woodruff and others are defendants, before C. B. Singleton, Commissioner.

First Cross-interrogatory.—In what way are you connected with or related to the defendants in this suit, or either of them, or were you at the time of the matters inquired of?

Second Cross interrogatory.—How many barrels or tierces did you cooper, and when? In what place did you cooper the same? What were the materials with which you coopered? How long have you been in the business of coopering?

Third Cross-interrogatory.—What are your means of knowledge of the matter in July, 1854? How do you recollect the day, or time of day, the lard was handled.

Fourth Cross-interrogatory.—How do you know the condition of the barrels or tierces, as inquired of in the sixth direct interrogatory, or of the time of day the same were hauled to the vessel? State all your means of information.

Fifth Cross-interrogatory.—If, in answer to the seventh direct interrogatory, you say you do, state how you know what was done with said packages when taken to the vessel. State all your means of information as to the time they were on the levee, and the names of your informants. Where was the Maid of Orleans then lying? How long had she been in? Was she loading or unloading? Whom did you notify when the lard was delivered on the levee? Did you see it there afterwards, and when? Did you give any notice to any persons on board the ship, where it was, and to whom? Is it the custom for goods to lay on the levee until they can be put on board? Were not these goods put on board with the usual dispatch?

Sixth Cross-Interrogatory. If in answer to the eighth interrogatory you state you do know who stowed the lard, inquired of? State how you know? Who informed you? Did you see it stowed, and if any, how much of it? Who else was present? On what part of the ship was it stowed.

Seventh Cross-Interrogatory. If in answer to the ninth interrogatory you state any matters, state particularly your means of knowledge and information, and how derived.

R. GOODMAN, *for Plaintiffs.*

N. Y. Common Pleas.

Cross-Interrogatories, &c., Thomas Dix, Joseph Sloan, and Jacob Mussina, &c.

First Cross-Interrogatory, How are you related to the defendants, or either of them, or how connected with them in business, or how were you, at the time inquired of in the direct interrogatories?

Second Cross-Interrogatory. If you say in answer to the third direct interrogatory, you did make the freight engagement, state if the same, or any part, was in writing, and produce that writing?

Third Cross-Interrogatory. State your means of knowledge, if you answer the fourth interrogatory, how and from whom you acquired the information?

Fourth Cross-Interrogatory. If you answer the sixth direct interrogatory, state how you know when the packages were taken on board the ship, or how long they remained on the levee? Are there any warehouses on the levee? Was the ship loading or unloading? How long did she lie there, from the time she entered port to her departure on the voyage inquired of? Did you see any one connected with the ship in relation to the lard, (and whom, and when, and where,) after the lard was delivered on the levee? How do you know the packages of lard were coopered? How do you know in what part of the ship the lard was stowed? Did you see it? Where is lard usually stowed in the ship? Did you see it after it was all stowed?

Fifth Cross-Interrogatory. How do you know the custom as to shipping lard as inquired of in the ninth interrogatory? Who informed you of it? How long has it been the custom? Can it be taken on board while the ship is unloading? Is not the lard sometimes delivered before the ship gets to the levee?

Sixth Cross-Interrogatory. How do you know the state of the weather in July, 1854? Was it different in that year from ordinary years? Is there any cause for your recollecting that month particularly?

Seventh Cross-Interrogatory. If you answer to the direct interrogatory, state all your means of knowledge and from whom you derived your information.

R. GOODMAN, *for Plaintiff.*

(Endorsed.)

N Y. Common Pleas.

William Nelson and others, against James E. Woodruff and others.

Copies of Interrogatories and Cross-Interrogatories of witnesses in New Orleans.

Depositions of witnesses produced, sworn and examined, the nineteenth day of April, in the year one thousand eight hundred and fifty-five, at my office, in the building, No. 78 Camp street, situate on the corner of Camp and Natchez streets, in the city of New Orleans, in the State of Louisiana, under and by virtue of a commission issued out of the Court of Common Pleas in and for the City, County, and State of New York, in a certain cause therein depending and at issue between William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen, plaintiffs, and James E. Woodruff, John O. Woodruff and Robert M. Henning, defendants, as follows:

Thomas J. Dix, a resident of this city, and a merchant, aged forty years and upwards, being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined separately on the part of the defendants, doth depose and say as follows:

First. To the first interrogatory he saith: My name is Thomas J. Dix. My age is forty-two. I am a commission and forwarding merchant. My business is located in the city of New Orleans, Louisiana, where I work.

Second. To the second interrogatory he saith: I know John O. Woodruff only. I have known him about six or eight years. I shipped on the Maid of Orleans, on or about the 10th day of July, 1854, one thousand and ninety-nine hundred barrels and sixty-one tierces of lard, consigned to the defendants at New York.

Third.—Tot he third interrogatory, he saith: I made the freight engagement with David M. McCord and Cohen Soria, clerks of Aaron Cohen, agent of the ship Maid of Orleans. The rate of freight agreed upon between us, cents per barrel and cents per tierce. It was agreed that the lard should be sent to the vessel in the morning and evening of each day until the whole of the lard was shipped; and it was expressly agreed, on their part, that the lard should be taken on board the ship as fast as the same was sent to the vessel, to avoid exposing the same to the sun, which was known to be very injurious to the lard.

Fourth.—To the fourth interrogatory, he saith: the packages containing the lard were in good order at the time the same were delivered to the said vessel. They had been previously well coopered before being sent to the vessel, and after they were sent to vessel a cooper was sent for the purpose of seeing that they were in complete order and good condition. The packages were delivered to the vessel in the cool of the day, morning and evening, and the said packages were full when so delivered.

Fifth.—To the fifth interrogatory, he saith: I have been engaged in the business of buying and selling lard in this city during the last two years. The effect of the sun upon lard exposed to it in this city is to cause the lard to melt and run out of the packages, and it also causes the lard to become rancid much sooner than when not thus exposed to the rays of the sun in the open air. The sun also causes the hoops to "start" from the boards, owing to the shrinking of the wood.

Sixth.—To the sixth interrogatory, he saith: some of the packages were not taken on board the said vessel as soon as hauled upon the levee, but remained on the levee some two days or more. The quantity thus exposed to the sun on the levee I cannot state.

Seventh.—To the seventh interrogatory, he saith: the packages were well coopered previous to being shipped.

Eighth.—To the eighth interrogatory, he saith: I know not.

Ninth.—To the ninth interrogatory, he saith: it is the custom in this city to ship lard in the cool of the day, morning and evening, and to take it on board as soon as delivered to the ship, in order to avoid exposure to the sun.

Tenth.—To the tenth interrogatory, he saith: the weather in July, 1854, was very warm.

Eleventh. To the eleventh interrogatory, he saith: I do not know anything further than already stated.

### *Cross-Interrogatories.*

First. To the first cross-interrogatory, he saith: I am not related to the defendants, or either of them. I am not connected with them in business, except occasionally, I make shipments to them—nor was I at the time of said shipment.

Second. To the second cross-interrogatory, he saith: the freight engagement above spoken of was as verbal a one as is customary in this city, and not a written one.

Third. To the third cross-interrogatory, he saith: I acquired my information from my boss drayman Patrick Welch, and my cooper.

Fourth. To the fourth cross-interrogatory, he saith: I acquired my knowledge from the persons named in my answer to the last preceding interrogatory. There are no warehouses on the levee proper; the ship was loading for New York at the time the lard was sent to her; I cannot state how long she remained in port; I saw no one connected with the ship after the lard was delivered to the vessel on the levee; I learned that the packages of lard were coopered from the persons named in my answer to the third cross-interrogatory and from having paid the cooper's bill for the same; I did not see the lard after it was taken on board the ship, and cannot state in what part of the ship it was stowed; lard is usually stowed in the hold of a vessel.

Fifth. To the fifth cross-interrogatory, he saith: I know the existence of such custom from my experience in business and its universal recognition by all persons engaged in that business, it has always been the custom since I have been in business in the city; the custom was fully recognized when I first came to this city. I cannot state whether lard can be taken on board a ship while the ship is being unloaded, it might under particular circumstances. I have no experience in loading ships, I am not aware that lard is ever delivered to a ship before the ship gets to the levee, I have never heard of a case of the kind, and I would think any man crazy who would thus deliver lard.

Sixth. To the sixth cross-interrogatory, he saith: I know the weather was, in July, 1854, very warm from the fact that I was in this city at the time; there is no cause particularly of my recollecting the weather in July, 1854; the weather in that month is always warm in this city.

Seventh. To the seventh cross-interrogatory, he saith: I communicated no information in my answer to the eleventh direct interrogatory, and further I know not.

THOS. J. DIX.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this the 19th day of April, 1855.

And at my office aforesaid on this, the 21st day of April, 1855, appeared before me Joseph S. Slcan, a resident of this city, and by occupation a produce-broker, aged upwards of forty-four years, being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined on the part of the defendants, doth depose and say, as follows:

First.—To the first interrogatory, he saith: His name is Joseph S. Sloan, aged upwards of forty-four years; his business is a produce-broker, and that his business is located in the city of New Orleans, Louisiana, where he works.

Second.—To the second interrogatory, he saith: He knows the defendants to this suit, and has known them about six years. He did not make any shipment of lard, consigned to the defendants, per the ship "Maid of Orleans," in the month of July, 1854.

Third.—To the third interrogatory, he saith: He knoweth not.

Fourth.—To the fourth interrogatory, he saith: He knoweth not.

Fifth.—To the fifth interrogatory, he saith: He has been engaged in buying, selling and shipping lard during the last fifteen years, and during all that time he was engaged quite extensively, and for the last five years very extensively indeed. That the house of De la Rue & Sloan, of which he is a member, buys and ships the largest portion of the lard bought, and sold in this city, last year said house bought and shipped about seventy thousand barrels of lard. The effect of the sun upon lard in the open air, in this city, in the month of July, is very injurious. That he never ships lard except early in the morning and late in the evening, in order to avoid the very injurious effect of the sun upon it. That occasionally he buys lard on the levee, which has never been in store in this city, and lard thus bought is necessarily exposed to the sun more or less.

Sixth. To the sixth interrogatory, he saith: He knoweth not.

Seventh. To the seventh interrogatory, he saith: He knoweth not.

Eighth. To the eighth interrogatory, he saith: He knoweth not.

Ninth. To the ninth interrogatory, he saith: It is the custom in this City to ship lard very early in the morning and late in the evening, and when hauled to the ship or ships it is expected that the same will be immediately taken on board, and such is the custom in this port. When shipping lard, he frequently visits the vessels receiving the same to ascertain whether they comply with this custom. That it is the custom of thus shipping lard very early in the morning and late in the evening and taking the same immediately on board the vessels for the express purpose of avoiding the very injurious effect of the sun on the lard, and for no other purpose.

Tenth. To the tenth interrogatory, he saith: That the weather in July, 1854, was excessively warm, a great deal warmer than it was usually in this city during that month for some years past.

Eleventh. To the eleventh interrogatory, he saith: Lard exposed to the rays of the sun in the month of July in this city, becomes very soft, and escapes from the packages, which are shrunk by the effect of the sun upon them. The loss on lard thus exposed is usually very great.

### *Cross Interrogatories.*

First. To the first cross-interrogatory, he saith: He is not related to the defendants in any manner whatever, neither is he now, nor was he in July, 1854, connected with them in business. He is not related to the defendants or either of them, and was in no manner connected with them, or either of them, in business at the time inquired of in the direct interrogatories.

Second. To the second cross-interrogatory, he saith: He has not said that he made the freight engagement in answer to the third.

Third. To the third cross-interrogatory, he saith: He did not answer the fourth interrogatory except in the negative.

Fourth. To the fourth cross-interrogatory, he saith: He answered the fourth interrogatory in the negative.

Fifth. To the fifth cross-interrogatory, he saith: He knows the custom from his long experience in the business, no one informed him of it, for he observed the custom by seeing it observed by all those engaged in shipping lard. It was the custom about nineteen years ago when he first came to this city; the custom was then in full force at that time; lard might be taken on board while the ship was unloading under certain circumstances; it might be temporarily stowed between decks; he never knew any lard to be delivered to a ship before she reached the levee; it may have been done but thinks it imprudent even in winter.

Sixth. To the sixth cross-interrogatory, he saith: He recollects that the month of July, 1854, was very hot, from the very fact of its being exceedingly warm, and also from the fact that he did during said month, and often since, speak of the heat of that month.

Seventh. To the seventh cross-interrogatory, he saith: His means of knowledge is his actual observation and long experience in the business.

JOS. S. SLOAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this the 21st day of April, 1855.

CHARLES B. SINGLETON,
*Commissioner.*

And at my office aforesaid, on this, the 23d day of April, 1855, appeared before me, Thomas Dernen, a resident of this City, and by occupation a cooper, aged upwards of thirty-five years, and being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined separately on the part of the defendants doth depose and say follows:

First. To the First Interrogatory, he saith: His name is Thomas Dernen, aged above thirty-five years, by occupation a cooper, and resides in the City of New Orleans, Louisiana..

Second. To the second interrogatory, he saith: That he knows none of the parties to this suit except John O. Woodruff. Has known him by sight ten or twelve years. Does not recollect the exact time.

Third. To the third interrogatory, he saith: He knows the ship "Maid of Orleans." He was employed in the month of July, 1854, to cooper some barrels and tierces of lard that were shipped on said vessel. He was employed by Mr. Thos. J. Dix, of the firm of Kennett, Dix & Co., in said month of July, 1854. The packages were in good condition, except an occasional one which required a little driving. The packages required very little coopering, and what were coopered, were well coopered. He cannot state positively whether all the packages were full, but from their appearance, they seemed to be full. When the last lard was hauled to the "Maid of Orleans," it was in splendid condition.

Fourth. To the fourth interrogatory, he saith: That the weather during the month of July, 1854, in this City was very hot.

Fifth. To the fifth interrogatory, he saith: That he knoweth not. He was not employed to dray the lard.

Sixth. To the sixth interrogatory, he saith: He did not haul the lard to the vessel, but, that he saw the drayman employed for that purpose hauling it. It was hauled to the vessel early in the morning, and late in the evening of each day.

Seventh. To the seventh interrogatory, he saith: He sent a boy to the vessel on a Saturday to cooper one barrel; and, that the mate was not pleased with the manner this boy coopered the barrel; and, that he went to the vessel early on Monday morning, and found still on the levee, exposed to the sun, a considerable quantity of lard which had been hauled to the said vessel on the Saturday previous and the days previous thereto. This lard was placed in tiers on the levee. The exact quantity he cannot give, but there were two or three pretty long tiers laying close to the side of the ship. This lard had been on the levee from Saturday until Monday. That he remarked to the mate that the lard thus exposed was losing very much.

Eighth. To the eighth interrogatory, he saith: He knoweth not.

Ninth. To the ninth interrogatory, he saith: He knows nothing more about this matter than he has already stated.

### *Cross-Interrogatories.*

First. To the first cross-interrogatory, he saith: He was not at the time of said shipment connected with the defendants or either of them in any manner whatever, neither has he been since.

Second. To the second cross-interrogatory, he saith: All the barrels were nailed, and any of the packages which required driving were stripped, and the hoops driven on tight. He means by all the barrels, all the packages were nailed in order to keep the hoops from slipping. All the packages were coopered in the Montgomery Warehouse, except the one barrel coopered on the levee, as stated above. He used the ordinary cooper's adze; and what hoops were supplied, were made out of the ordinary hickory poles used for that purpose. He has carried on a cooper's shop on his own account about five years. He has worked at the business as journeyman about three years. He served as apprentice to the business four years.

Third. To the third cross-interrogatory, he saith: He recollects the weather in July, 1854, was hot, because he felt it to be so. He recollects the lard was hauled in the morning and evening of each day, as stated above, just as he would any other fact he knew and had not forgotten.

Fourth. To the fourth cross-interrogatory, he saith: He has stated nothing in regard to the condition of the lard in his answer to the sixth interrogatory, and that he recollects the time of day the same was hauled just as he does any other fact not forgotten by him. His means of information consists in his seeing the lard hauled.

Fifth.—To the fifth cross-interrogatory, he saith: That in his answer to the seventh interrogatory, he stated that he saw the lard on the levee early in the morning, on Monday before any had been hauled on said Monday to the ship, and as none of the lard had been hauled to the ship on the previous Sunday he knows the lard he saw on the levee early on Monday morning, as stated before, had been hauled there on the previous Saturday, or days previous thereto. The "Maid of Orleans," was lying nearly abreast of the Vegetable Market, in the second district of this city. She was loading at the time he saw the lard thus exposed. It is customary to leave goods on the levee, until they can be taken on board. And it is also customary for vessels to receive lard early in the morning and late in the evening, and to take the same immediately aboard the vessels, in order to avoid the injurious effects of the sun upon the lard. This lot of lard was not taken on board the Maid of Orleans, with the usual dispatch.

Sixth.—To the sixth cross-interrogatory, he saith: He could not answer the eighth interrogatory, except to express his ignorance of the matters inquired of.

Seventh.—To the seventh cross-interrogatory, he saith: He answered the ninth interrogatory, in the negative. He communicated no information in answer thereto.

THOMAS DERNEN.

Examination taken reduced to writing, and by the witness subscribed and sworn to, this the 23d day of April, 1855.

CHARLES B. SINGLETON,
*Commissioner.*

And at my office aforesaid, on this the 24th day of April, 1855, appeared before me Patrick Murphy, a resident of this city, and by occupation a drayman, aged upwards of nineteen years, and being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined separately, on the part of the defendants, doth depose and say as follows:

First.—To the first interrogatory, he saith: His name is Patrick Murphy, age upwards of nineteen years, occupation a drayman, and resides in the city of New Orleans, Louisiana.

Second.—To the second interrogatory, he saith: He does not know any of the parties to this suit.

Third.—To the third interrogatory, he saith: He knows the ship "Maid of Orleans," was not employed to cooper any barrels shipped on board. He was employed by Kennett, Dix & Co., to haul a lot of lard to said vessel, in the month of July, 1854. The packages seemed to be in good order, and from the way they handled, the said packages seemed to be full.

Fourth.—To the fourth interrogatory, he saith: The weather in July, 1854, was very hot. The lard was hauled to the said vessel very early in the morning, and very late in the evening of each day.

Fifth.—To the fifth interrogatory, he saith: He was employed to haul the lot of lard inquired of, in the month of July, 1854, to the ship "Maid of Orleans," then lying in the port of New Orleans. He was employed by Kennett, Dix & Co., merchants of this city. There were about twelve hundred barrels and tierces altogether, the exact number he cannot now remember. He was assisted to haul this lot of lard by four or five other draymen.

Sixth.—To sixth interrogatory, he saith: The barrels and tierces when hauled by him and the men employed by him for that purpose were in good condition, being well coopered, and tight previous to being taken to the said vessel, none of the lard was handled later than ten o'clock in the morning of each day, and he did not begin to haul any in the evening until between three and four o'clock in each evening. The first load each evening reached the vessel about four o'clock. All the lard was delivered to those in charge of said vessel, very close to the vessel, not more than thirty to forty feet distant from the "Maid of Orleans," the same being landed at the said vessel as near as those in charge of her desired the same to be placed.

Seventh.—To the seventh interrogatory, he saith: that many of said packages hauled in the morning, remained on the levee exposed to the sun until next morning, and the greater part of said packages hauled in the evening, remained thus exposed on the levee until the evening of the next day. Some of them might have remained longer. He never saw lard thus exposed at that season of the year. The lard when delivered to the ship was in fine condition, except one barrel, which was coopered after it was taken to the ship.

Eighth.—To the eighth interrogatory, he saith: he does not know who stored this lard, and cannot tell how long it was in being stored, or how long it was stored. That after finishing draying the lard he didn't go to the vessel any more, and cannot tell how long it remained on the levee before it was taken on board the vessel and stored away.

Ninth.—To the ninth interrogatory, he saith: that lard thus exposed to the hot sun will injure and waste away very much. And further he saith not.

### *Cross-Interrogatories.*

First.—To the first cross-interrogatory, he saith: he is not at this time connected with or related to the defendants in this suit, or either of them, and has never been in any manner whatever.

Second.—To the second cross-interrogatory, he saith: he did not cooper the barrels and tierces or either.

Third.—To the third cross-interrogatory, he saith: he recollects the weather was in the month of July, 1854, very warm, because he felt the heat on many occasions during that month and has not forgotten the fact. He recollects it just as he does any other fact he has not forgotten. He recollects the time of the day the lard was hauled because he hauled a portion himself and superintended the hauling of the entire lot.

Fourth.—To the fourth cross-interrogatory, he saith: he knows the condition of the barrels and tierces from having seen and examined the same, and also from having assisted to haul them. He also knows the time of day they were hauled because he hauled a portion of the lot and superintended the hauling of the entire lot.

Fifth.—To the fifth cross-interrogatory, he saith: he knows the packages of lard were left on the levee, as stated in his answer to the seventh direct interrogatory, from having seen the same thus exposed and from observing the fact; no one informed him of it. He saw it himself. The "Maid of Orleans" was lying about the Vegetable Market in the second district of this city; he thinks she was loading. He notified the mate when the lard was delivered at the vessel. The mate was present at the vessel all the time the lard was being delivered and signed the dray receipts for the vessel. He was not especially notified of the delivery otherwise than his being present and signed the dray receipts for the lard. It is the custom for goods to lay on the levee until they can be put on board. It is not so much a custom as a necessity. It is also customary to take lard on vessels as soon as delivered.

Sixth.—To the sixth cross-interrogatory, he saith: he did not state, in his answers to the eighth interrogatory, who stowed the lard. He does not know who stowed the lard, and cannot tell in what part of the ship it was stowed.

Seventh.—To the seventh cross-interrogatory, he saith: he knows that lard will waste very much by being exposed to the hot sun, from having observed the fact.

his
PATRICK ⋈ MURPHY.
mark.

Examination taken, reduced to writing, and by the witness subscribed, by making his mark, (he being unable to write his name from the fact that he never learned to write,) and sworn to, this 24th day of April, 1855.

CHARLES B. SINGLETON, *Commissioner*.

And at my office aforesaid, on this, the 25th day of April, 1855, appeared before me, Jacob Mussina, a resident of this city, and by occupation a produce-broker, aged upwards of forty-six years, and being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined separately on the part of the defendants, doth depose and say, as follows:

First. To the first interrogatory, he saith: His name is Jacob Mussina, aged about forty-seven years, and by occupation a produce-broker; his business is located in the City of New Orleans, Louisiana, where he works

Second. To the second interrogatory, he saith: He knows only John O. Woodruff, whom he has known about eleven years; he has no recollection of making any shipment to the defendants of any lard in the month of July, 1854, on board the ship "Maid of Orleans."

Third. To the third interrogatory, he saith: He has no knowledge of having made any such freight engagement; he never made any such engagement.

Fourth. To the fourth interrogatory, he saith: he knoweth not.

Fifth. To the fifth interrogatory, he saith: He has been buying and shipping lard extensively during the last thirteen years, throughout the various seasons of the year. Lard exposed to the sun in the open air, during the month of July, in this city softens it, and often makes it necessary to recooper the packages, and if not re-coopered, it loses from five to fifteen per cent., and in some cases it loses a great deal more, depending a great deal on the character of the packages. Packages that will often contain lard with but very little loss when not exposed to the sun, will, when exposed to the sun in July of any year, lose very heavily. The sun in the month of July, in this city, has a very injurious effect both upon the packages and the lard, unless the lard is of a very superior quality; when thus exposed to the sun it becomes oil, and ceases to be lard.

Sixth. To the sixth interrogatory, he saith: He knoweth not.

Seventh. To the seventh interrogatory, he saith: He knoweth not.

Eighth. To the eighth interrogatory, he saith: He knoweth not.

Ninth. To the ninth interrogatory, he saith: That it is the custom in this city, during the warm season, to ship lard early in the morning and late in the evening of each day. That it is customary to take it immediately on board, that is, as soon as it is delivered to the vessel, *as soon as the same is delivered to the vessel.*

Tenth. To the tenth interrogatory, he saith: That the weather in this city during the month of July, 1854, was very hot.

Eleventh. To the eleventh interrogatory, he saith: He knows nothing more than he has already stated.

### *Cross Interrogatories.*

First. To the first cross-interrogatory, he saith: He is not related to the defendants, or either of them, in any manner whatever, and was not at the time inquired of. He was not connected with the defendants, or either of them, in business, at the time inquired of, neither has he been connected with them, or either of them, since.

Second. To the second cross-interrogatory, he saith: He did not make the freight engagement inquired of.

Third. To the third cross-interrogatory, he saith: He answered the fourth interrogatory, that he knoweth not.

Fourth. To the fourth cross-interrogatory, he saith: He answered to the sixth interrogatory, that he knoweth not.

Fifth. To the fifth cross-interrogatory, he saith: He knows the custom from thirteen years experience in buying and shipping lard to the various ports in America and Europe. No one informed him of the existence of the said custom, he always observed it himself, and he saw all those engaged in buying and shipping lard observing it. It is a custom founded on absolute necessity, in order to preserve that kind of property from great and serious loss. The custom has existed ever since he has been in the city; when he commenced business in this city, he found it in full force, and strictly observed. He has never known of an instance of lard being delivered on the levee before the ship reaches the levee. He would consider such a course exceedingly imprudent. Lard may be taken on board while the ship is unloading, and placed between decks.

Sixth. To the sixth cross-interrogatory, he saith: The weather in July, in this city, is generally very warm, and in July, 1854, his family was absent from the city *travelling*, and his anxiety concerning them, caused him to notice the state of the weather more particularly than he would otherwise have done.

Seventh. To the seventh cross-interrogatory, he saith: That he made only a negative answer to the last direct interrogatory, and that being the case he can make no answer to this interrogatory.

J. MUSSINA.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this, the 25th day of April 1855.

CHARLES B. SINGLETON,
*Commissioner.*

And at my office aforesaid on this the ninth day of May, 1855, appeared before me Charles Stanmeyer, a resident of this city and by occupation a cooper, aged upwards of twenty-four years, and being duly and publicly *sworn*, pursuant to the directions hereto annexed, and examined separately on the part of the defendants, doth depose and say, as follows:

First. To the first interrogatory, he saith: His name is Charles Stanmeyer; aged upwards of twenty-four years; occupation, a cooper, and he resides in the city of New Orleans, in the State of Louisiana.

Second. To the second interrogatory, he saith: He does not know any of the parties to this suit, personally.

Third. To the third interrogatory, he saith: He does not know the ship "Maid of Orleans." He was employed to cooper some barrels and tierces of lard, which were shipped on said vessel, in the month of July, 1854. He knows the lard was shipped on said vessel, by having seen the dray receipts for the same. He was employed by Kennett, Dix & Co., of this city in the month of July, 1854, as already stated. The packages when shipped were in good order and condition and the same required but little labor to put them in good order and condition. The packages were well coopered. The packages, from the way they felt in being coopered, were full, with the exception of two which had about fifty pounds out of each.

Fourth. To the fourth interrogatory, he saith: The weather, in the month of July, 1854, was uncommonly warm. The lard was hauled to the ship early in the morning and late in the evening of each day.

Fifth. To the fifth interrogatory, he saith: He was not employed to haul said lot of lard, or any other lot, in the month of July, 1854,

Sixth. To the sixth interrogatory, he saith: He did not haul the lard, but that he knows the same was hauled early in the morning and late in the evening of each day.

Seventh. To the seventh interrogatory, he saith: He does not know what was done with the lard when taken to the ship.

Eighth. To the eighth interrogatory, he saith; He knoweth not.

Ninth. To the ninth interrogatory, he saith: He knoweth nothing further that will benefit the defendants.

### *Cross-Interrogatories.*

First. To the first cross-interrogatory, he saith; He was not in any manner related to the defendants in this suit, or either of them, at the time of the matters inquired of, or since.

Second. To the second cross-interrogatory, he saith: There were about eleven hundred barrels and tierces, perhaps there were more. He coopered them in the month of July, 1854, in the Montgomery warehouse where the same was protected entirely from the rays of the sun. The materials used for coopering was the ordinary cooper's adze, and the ordinary hickory poles were used for hoops when needed. He served an apprenticeship of five years at the cooper's business, and has, exclusive of said five years, been working at the business during seven years.

Third. To the third cross-interrogatory, he saith: His means of learning the state of the weather in July, 1854, consisted in the fact of his being at the time in this city and actually feeling the intensity of the heat. He recollected the time of the day the lard was hauled, because he saw it hauled, and has not forgotten the fact.

Fourth. To the fourth cross-interrogatory, he saith: He knows the condition of the barrels when put on the drays, to be taken to the vessel, because it was his duty to see that all the packages were in good order and condition. He has stated that he did not see the lard after it was hauled to the vessel. He has already stated that he knows the time of the day the same was hauled to the vessel.

Fifth. To the fifth cross-interrogatory, he saith: He could not answer the seventh interrogatory, except to express his ignorance of the matters therein inquired of. He does not know where the Maid of Orleans was lying. He gave no notice to any person concerning the lard. He knows nothing as to the custom of goods remaining on the levee until the same can be put on board. Does not know whether these goods were put on the vessel with the usual dispatch. He never saw the lard after the same was hauled to the vessel.

Sixth.—To the sixth cross-interrogatory, he saith: To the eighth interrogatory, he answers: "He knoweth not."

Seventh.—To the seventh cross-interrogatory, he saith: His answer to the ninth interrogatory was, "he knoweth nothing further that will benefit the defendants."

CHARLES STANMEYER.

Examination taken, reduced to writing,
by the witness, and subscribed and sworn
to, this 9th day of May, 1855, before me.

CHARLES B. SINGLETON,
*Commissioner.*

Clerk's Office, Court of Common Pleas,
for the City and County of New York. }

I, Benjamin H. Jarvis, Clerk of said Court, do hereby certify that I have compared the preceding copies of answers to certain interrogatories with the originals thereof annexed, to a commission on file in my office, and that the same are correct transcripts therefrom, and of the whole of said originals.

In witness whereof I have hereunto set my hand, and seal of office, this 5th day of June, 1855.

[SEAL.] B. H. JARVIS, *Clerk.*

(Endorsed.)—N. Y. Common Pleas.

Wm. Nelson, and others, against Jas. E. Woodruff, and others.

Copy answers to Interrogatories annexed to a Commission.

District Court of the United States,
For the Southern District of New York. }

William Nelson and others,
*vs.*
John O. Woodruff, et al. } *Notice.*

Please to take notice, that Captain Edward P. Dennis, will be examined (*de bene esse*) on the part of the libellants and plaintiffs in the above entitled cause, before me, (a Commissioner duly appointed by the Circuit Court of the United States for the Southern District of New York, under and by virtue of the Acts of Congress in such case made and provided,) at my office, United States Court, No. 9 College Place, in the City of New York, on the 14th day of January inst., at 11 o'clock, in the forenoon of that day, at which time and place you are hereby notified to be present and put interrogatories, if you shall think fit.

Dated, New York, the 12th day of January, A. D. 1858.

Yours, &c.,
GEO. F. BETTS,
*United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.*

State of New York
City and County of New York. } *ss.*

Joseph Madden, of said City, being duly sworn says, that on the 12th day of January, inst., he served a copy and duplicate of the within notice on Beebe, Dean and Donohue, the defendants' attorneys, by delivering such duplicate and copy to Mr. Donohue, one of said attorneys, personally, and leaving the same with him.

JOSEPH MADDEN.

Sworn before me, this 14th day of January, 1858.

[SEAL.] F. C. BOWMAN,
*Notary Public.*

(Endorsed.)

U. S. District Court, William Nelson and others, against John O. Woodruff and others. No. of Examinations of Captain Dennis, (*de bene esse*,) 1858, January 14. Mr. Donohue appearing for claimants. Adjourned till 2 P. M.

G. F. BETTS,
*U. S. Commissioner.*

UNITED STATES OF AMERICA:

Southern District of New York,
City, County, and State of New York, } *ss.*

Be it remembered, That on this fourteenth day of January, in the year of our Lord one thousand eight hundred and fifty-eight, I, George F. Betts, a Commissioner, duly appointed by the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress entitled "An Act in addition to an Act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in Courts of the United States,'" passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office, at the U. S. Courts in the city of New York, in the said Southern District of New York, in the State aforesaid, Edward P. Dennis, to testify and the truth to say, on the part and behalf of the libellants, in a certain suit or matter of controversy, now depending and undetermined, in the District Court of the United States for the Southern District of New York, at the city of New York, in the District aforesaid, wherein William Nelson, Edward S. Dennis, Francis Bartlett, Sherburn Sears, and Aaron Cohen, are libellants, against John O. Woodruff and Robert M. Henning, surviving copartners of James E. Woodruff, deceased, &c. And the said Edward P. Dennis, being about the age of twenty-nine years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Edward P. Dennis, and he did thereupon depose, testify, and say as follows, viz.:

I am a sea-faring man, and captain of the ship "Maid of Orleans." I am going to sail on Monday next for New Orleans. I reside in Brooklyn. I was captain of the "Maid of Orleans" on her voyage in July, 1854, from New Orleans to New York. We left New Orleans in July; we arrived here in August. We had some lard on that passage—Messrs. Woodruff & Co. were the consignees of the lard. The weather was very warm when we left New Orleans, very hot. I saw some of the lard brought down to the vessel; there was no covering on the dray over the packages. It was put on board the ship immediately when received; it was stowed in the after-hold, in some places in four tiers, in some places in five tiers. When it came on board, the barrels were in good order, they were greasy on the outside and the lard would drip out between the staves as we rolled the barrels over—it appeared to be in a liquid state. It was taken aboard carefully, and particular attention was paid to stowing it. In my opinion the after part of the ship was by all means the best part in which to stow the lard. I saw that the lard came from up in the city. I think it did not come from any of the steamboats about. We have to keep the hatches on all the voyage; it was very hot in the hold.

E. P. DENNIS.

Subscribed and sworn to this 14th day of January, 1858, before me.

GEO. F. BETTS, *U. S. Commissioner.*

United States of America, } *ss.*
Southern District of New York. }

I, George F. Betts, a Commissioner duly appointed by the Circuit Court of the United States, for the Southern District of New York in the Second Circuit, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States,'" passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, the witness is material and necessary in the cause in the caption of the said deposition named, and that he is about to proceed to sea more than one hundred miles distant from the District in which said cause is to be tried. I further certify that due notification of the time and place of taking the said deposition signed by me, was made out and served on the proctors for the claimants, to be present at the taking of the said deposition, and to put interrogatories, if he or they might think fit, and that Charles Donohue, Esq., one of the proctors for the claimants, appeared at the hour named in said notification, when the taking of said deposition was adjourned until two o'clock in the afternoon of the same day. I further certify that on the said 14th day of January, at two o'clock P. M., in the year of our Lord one thousand eight hundred and fifty-eight, I was attended by the proctor for the libellants (the proctors for the claimants not appearing at that time), and by the witness, who was of sound mind and lawful age, and the witness was by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness, and from his statement; and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of filing the same in the Court for which the same was taken. And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in said caption.

In testimony whereof, I have hereunto set my hand and seal, [SEAL.] this 14th day of January, in the year of our Lord one thousand eight hundred and fifty-eight, and of the Independence of the United States, the eighty-second.

GEO. F. BETTS,
*United States Commissioner, duly appointed by the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit.*

(Endorsed.)—Vol. 14, page 19. United States District Court, for the Southern District of New York.

William Nelson and others,
*vs.*
John O. Woodruff, *et als.*

Deposition on the part of the libellants, taken before George F. Betts, United States Commissioner, on the 14th day of January, 1858.

Filed the 14th day of January, 1858.

Jno. O. Woodruff & Co.

No.—

New Orleans, July 12, 1854.

$6,615 $\frac{56}{100}$.

Seventy days after date, pay to the order of ourselves, sixty-six hundred and fifteen $\frac{56}{100}$ dollars, value received, and charge the same to account.

As advised.

To Messrs. James E. Woodruff & Co., New York.
E. JNO. O. WOODRUFF & CO.

(Endorsed.)—Charge Sales Lard, and cr. our acct.
JNO. O. WOODRUFF & CO.,

Credited Jno. O. Woodruff & Co., in acct., July 20, 1854.

Jno. O. Woodruff & Co.

$21,510 $\frac{88}{100}$.

New Orleans, June 29, 1854.

Seventy days after date, please place to the debit of Shipment Lard, per ship Maid of Orleans, twenty-one thousand five hundred and ten $\frac{88}{100}$ dollars. Value received, from John O. Woodruff & Co.

KENNETT, DIX & CO.

To Messrs. James E. Woodruff & Co., New York.
E.

(Endorsed.)
K. D. P. J.
Credited John O. Woodruff & Co., on acct. July 13, 1854.

# 19.

Shipped, in good order and condition, by Jno. O. Woodruff & Co., on board the ship called the "Maid of Orleans," whereof Dennis is master, now lying in the port of New Orleans, and bound for New York, that is to say:

W. 111. One hundred and eleven tierces lard.
196. One hundred and ninety-six barrels do.

| | | |
|---|---|---|
| 111 Ts., | $1 53, | $169 83 |
| 196 Bbls., | $1 15, | 225 40 |
| | | $395 23 |
| | | 19 76 |
| | | $414 99 |

Being marked and numbered as in the margin, and are to be delivered in the like good order and condition, at the port of New York (the dangers of the Navigation and fire only excepted,) unto James E. Woodruff & Co., or to their assigns, he or they paying freight for the said lard one $\frac{15}{100}$ dollar per barrel, and one $\frac{53}{100}$ dollar per tierce, with 5 per cent. primage and average accustomed.

In witness whereof, the said Master of the said vessel hath affirmed to three Bills of Lading, all of this tenor and date, one of which being accomplished, the others to stand void.

New Orleans, July 11, 1854.

| Bbls. | Tcs. | |
|---|---|---|
| 6 | 16 | Contents unknown. |
| 45 | 20 | |
| 22 | 40 | |
| 22 | 30 | |
| 21 | 5 | |
| 22 | | |
| 6 | 111 | |
| 5 | | |
| 12 | | |
| 18 | | |
| 11 | | |
| 6 | | |
| 196 | | |

# 18.

KENNETT, DIX & CO.,
Commission and Forwarding Merchants,
New Orleans.

Shipped, In good order and well conditioned by Kennett, Dix & Co., for account and risk of whom it may concern, on board the good ship called the Maid of Orleans, whereof E. P. Dennis is Master for the present voyage, now lying at the port of New Orleans, and bound for New York, the following articles:

| | | |
|---|---|---|
| Burrows & Prettyman. | 293 | Two hundred and ninety-three bbls. lard |
| M. & C. | 319 | Three hundred and nineteen bbls. do. |
| Green & Stone. Lemp. | 205 | Two hundred and five bbls. lard |
| H. | 233 | Two hundred and thirty-three bbls lard |
| | 38 | Thirty-eight tierces lard |
| P. | 23 | Twenty-three tierces lard |
| | 7 | Seven barrels lard |
| Green & Stone. D. | 42 | Forty-two barrels lard |

Being marked and numbered as in the margin, which are to be delivered without delay in the like good order at the port of New York, (the dangers of the seas and fire only excepted,) unto J. E. Woodruff & Co., or to their assigns, he or they paying freight for the said goods at the rate of one dollar and fifteen one-hundredths per barrel, and one dollar and fifty one-hundredths per tierce —— —— with five per cent. primage and average accustomed.

| *Charges.* | *dol. cts.* |
|---|---|
| Freight, | |
| Postage & B. Lad'g, | |
| Drayage, | |
| Storage and labor, | |
| Forwarding chg's, | |
| 1099 Bbls. at $1 15, | $1,263 85 |
| 61 Tcs. at 1 50, | 91 50 |
| | 1,355 35 |
| | 67 77 |
| | $1,423 12 |

In witness whereof, the Master or Purser of said ship hath affirmed to —— Bills of Lading, all of this tenor and date, one of which being accomplished the others to stand void.

Dated in New Orleans, this 11th day of July, 1854. (Contents unknown.)

| B & P | M & C | H | H | Lemp | D | P | P | | |
|---|---|---|---|---|---|---|---|---|---|
| Bbls. | Bbls. | | Tcs. | Bbls. | | Bbls. | Tcs. | Bbls. | Tcs. |
| 70 | 5 | 25 | 18 | 80 | 19 | 7 | 8 | 40 | 18 |
| 20 | 3 | 30 | 10 | 10 | 10 | | 15 | 10 | 10 |
| 55 | 65 | 5 | —— | 30 | 13 | | —— | 50 | 8 |
| 35 | 10 | 20 | 28 | 20 | —— | | 23 | 15 | 15 |
| 20 | 5 | 42 | 10 | 13 | 42 | | | 10 | 10 |
| 40 | 15 | 10 | —— | 5 | | | | 80 | —— |
| 5 | 5 | 20 | 38 | 47 | | | | 10 | 61 |
| 10 | 15 | 40 | | —— | | | | 40 | |
| 40 | 40 | 15 | | 205 | | | | 80 | |
| —— | 15 | 40 | | | | | | 10 | |
| 295 | 10 | —— | | | | | | 50 | |
| | 10 | 247 | | | | | | 20 | |
| | 10 | | | | | | | 40 | |
| | 10 | | | | | | | 5 | |
| | 10 | | | | | | | 10 | |
| | 10 | | | | | | | 40 | |

7
20
15
13
10
———
303

19
10
13
7
10
57
60
15
5
5
15
35
10
65
25
38
80
70
———
1099

| Bbls. | Tcs. |
|---|---|
| 293 | 38 |
| 319 | 23 |
| 205 | — |
| 233 | 61 |
| 7 | |
| 42 | |
| 1099 | |

(Duplicate.)

*Return of Merchandise weighed for Messrs. J. E. Woodruff & Co.,*

| viz.: | | | Gross. | Tare. |
|---|---|---|---|---|
| Burrows & Prettyman. | 185 | Bbls lard | 46399 | |
| Green & Stone. | 123 | " " | 26576 | 5712 |
| M & C | 214 | " " | 42842 | |
| No mark. | 51 | " " | 12298 | |
| H | 16 | " " | 3912 | |
| P | 8 | " " | 1991 | |
| H | 17 | Tcs. " | 5974 | |
| P | 7 | " " | 2317 | |
| M & C | 3 | " " | 664 | |

## BURROWS & PRETTYMAN.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 263 | 202 | 273 | 257 | 271 | 278 | 222 | 261 | 249 |
| 272 | 261 | 265 | 268 | 256 | 262 | 250 | 243 | 262 |
| 273 | 263 | 270 | 275 | 258 | 228 | 260 | 267 | 261 |
| 249 | 269 | 276 | 247 | 264 | 253 | 248 | 245 | 244 |
| 255 | 260 | 258 | 222 | 272 | 252 | 206 | 263 | 257 |
| 259 | 252 | 243 | 239 | 280 | 263 | 272 | 237 | 262 |
| 210 | 255 | 246 | 265 | 257 | 261 | 264 | 253 | 267 |
| 267 | 225 | 272 | 263 | 271 | 284 | 265 | 266 | 237 |
| 273 | 272 | 282 | 266 | 271 | 266 | 272 | 269 | 254 |
| 261 | 246 | 274 | 256 | 263 | 256 | 246 | 244 | 265 |
| 2582 | 2505 | 2659 | 2558 | 2663 | 2603 | 2505 | 2548 | 2558 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 265 | 274 | 275 | 256 | 219 | 265 | 235 | 259 | 271 | |
| 275 | 276 | 230 | 254 | 274 | 253 | 274 | 207 | 264 | |
| 273 | 271 | 263 | 244 | 272 | 274 | 272 | 273 | 168 | |
| 262 | 200 | 280 | 264 | 257 | 272 | 267 | 276 | 169 | |
| 277 | 246 | 245 | 233 | 263 | 266 | 252 | 227 | 69 | |
| 255 | 248 | 278 | 257 | 274 | 256 | 261 | 245 | 198 | 193 |
| 262 | 259 | 256 | 237 | 254 | 249 | 256 | 270 | 190 | 180 |
| 261 | 245 | 265 | 244 | 273 | 213 | 251 | 264 | 173 | 122 |
| 243 | 274 | 247 | 245 | 265 | 266 | 265 | 253 | 188 | 55 |
| 275 | 267 | 267 | 245 | 260 | 261 | 265 | 259 | 193 | 175 |
| 2648 | 2560 | 2606 | 2479 | 2611 | 2575 | 2598 | 2533 | 1883 | 725 |

## GREEN & STONE.

| | | | | | | |
|---|---|---|---|---|---|---|
| 221.42 | 244.44 | 264.50 | 237.40 | 221.45 | 249.45 | 206.52 |
| 245.50 | 272.47 | 232.46 | 250.45 | 223.45 | 258.47 | 266.50 |
| 258.45 | 228.49 | 264.50 | 229.44 | 224.50 | 239.44 | 219.48 |
| 255.46 | 263.48 | 220.45 | 248.45 | 260.44 | 245.45 | 207.49 |
| 256.48 | 210.42 | 236.45 | 250.42 | 246.44 | 214.45 | 207.50 |
| 234.46 | 269.46 | 256.49 | 258.43 | 249.44 | 210.51 | 269.49 |
| 261.47 | 273.48 | 266.44 | 257.45 | 241.45 | 247.46 | 266.46 |
| 268.48 | 260.48 | 267.45 | 231.45 | 260.45 | 244.44 | 263.45 |
| 247.45 | 243.40 | 252.47 | 253.49 | 252.48 | 214.44 | 218.49 |
| 247.44 | 262.46 | 243.48 | 258.46 | 260.46 | 204.43 | 261.46 |
| 2492.461 | 2524.458 | 2500.469 | 2471.444 | 2436.456 | 2324.454 | 2382.484 |

| | | | | | |
|---|---|---|---|---|---|
| 216.45 | 219.51 | 130.47 | 136.43 | 144.46 | |
| 222.46 | 250.43 | 50.45 | 185.45 | 94.52 | |
| 258.41 | 260.47 | 136.52 | 186.42 | 81.47 | |
| 207.46 | 215.42 | 164.49 | 180.45 | 171.56 | |
| 241.44 | 243.43 | 194.43 | 54.43 | 189.52 | |
| 217.44 | 268.48 | 194.51 | 133.50 | 135.50 | |
| 220.48 | 205.48 | 183.43 | 96.54 | 197.45 | |
| 212.42 | 228.40 | 195.48 | 181.49 | 136.46 | 175.45 |
| 211.48 | 154.51 | 134.48 | 64.48 | 121.50 | 185.46 |
| 228.46 | 196.50 | 194.52 | 170.43 | 180.50 | 210.48 |
| 2232.450 | 2238.463 | 1574.478 | 1385.462 | 1448.494 | 570.139 |

M. & C.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 235 | 255 | 245 | 237 | 256 | 264 | 208 | 256 |
| 238 | 246 | 223 | 264 | 237 | 246 | 260 | 238 |
| 251 | 248 | 211 | 234 | 221 | 261 | 226 | 265 |
| 264 | 257 | 235 | 264 | 262 | 246 | 253 | 234 |
| 250 | 244 | 206 | 265 | 260 | 209 | 257 | 224 |
| 234 | 260 | 208 | 256 | 214 | 245 | 239 | 273 |
| 236 | 249 | 256 | 234 | 201 | 241 | 226 | 222 |
| 246 | 237 | 275 | 255 | 230 | 207 | 249 | 218 |
| 247 | 203 | 232 | 244 | 225 | 256 | 255 | 241 |
| 237 | 215 | 262 | 262 | 265 | 251 | 268 | 270 |
| 2438 | 2414 | 2353 | 2515 | 2371 | 2426 | 2441 | 2441 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 235 | 266 | 251 | 237 | 251 | 265 | 117 | 199 |
| 263 | 264 | 275 | 236 | 237 | 273 | 116 | 168 |
| 245 | 205 | 252 | 232 | 232 | 83 | 125 | 175 |
| 265 | 252 | 268 | 228 | 245 | 192 | 139 | 184 |
| 254 | 206 | 215 | 248 | 263 | 173 | 108 | 180 |
| 278 | 200 | 223 | 260 | 234 | 171 | 104 | 187 |
| 205 | 266 | 267 | 245 | 246 | 193 | 156 | 142 |
| 273 | 262 | 230 | 270 | 244 | 178 | 117 | 113 |
| 252 | 241 | 239 | 263 | 265 | 169 | 165 | 97 |
| 222 | 246 | 246 | 230 | 222 | 175 | 185 | 175 |
| 2492 | 2408 | 2466 | 2449 | 2439 | 1872 | 1332 | 1620 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 173 | 86 | 171 | 170 | 144 | | H. | |
| 136 | 73 | 135 | 158 | 112 | | | |
| 76 | 113 | 171 | 97 | 142 | | 274 | 267 |
| 148 | 164 | 55 | 56 | 77 | | 277 | 240 |
| 99 | 118 | 102 | 52 | 139 | | 266 | 260 |
| 98 | 99 | 92 | 132 | 68 | | 289 | 248 |
| 98 | 180 | 198 | 120 | 107 | 171 | 244 | 256 |
| 152 | 144 | 121 | 87 | 96 | 130 | 238 | 276 |
| 102 | 48 | 55 | 52 | 144 | 96 | 255 | 143 |
| 93 | 157 | 69 | 189 | 184 | 116 | 259 | 120 |
| 1175 | 1182 | 1169 | 1113 | 1213 | 513 | 16.3912 | |

NO MARK.

| | | | | | |
|---|---|---|---|---|---|
| | | | | 246 | |
| 245 | 296 | 256 | 275 | 268 | P. |
| 276 | 249 | 256 | 270 | 275 | |
| 251 | 248 | 265 | 255 | 265 | 255 |
| 262 | 202 | 271 | 271 | 257 | 297 |
| 263 | 215 | 269 | 238 | 276 | 239 |
| 222 | 221 | 245 | 245 | 184 | 272 |
| 230 | 186 | 243 | 272 | 120 | 234 |
| 239 | 268 | 270 | 238 | 158 | 259 |
| 246 | 243 | 263 | 264 | 69 | 252 |
| 227 | 237 | 285 | 254 | 149 | 183 |
| 2461 | 2365 | 2623 | 2582 | 2267 | 1991 |

| H. Tierces. | | | P. | M. & C. |
|---|---|---|---|---|
| | | | 370 | |
| 352 | 344 | | 339 | |
| 349 | 350 | 350 | 370 | |
| 345 | 357 | 347 | 278 | |
| 351 | 347 | 359 | 240 | 261 |
| 347 | 350 | 360 | 350 | 294 |
| 352 | 361 | 353 | 370 | 119 |
| 17.5974 | | | 7.2317 | 674 |

JOHN H. WOOD,
*Weigher.*

*New York,* 15*th Nov.*, 1854.
(Endorsed.)
A.
D. P. J. Exhibit (1).

(Duplicate.)

*Return of Merchandise weighed for Messrs. Jas. E. Woodruff & Co.*

| viz.: | | | Gross. | Tare. |
|---|---|---|---|---|
| Green & Stone, | 82 | bbls. Lard, | 19,629 | 3,808 |
| (H.) | 20 | " " | 5,183 | |
| M. & C., | 8 | " " | 1,850 | |
| Burrows & Prettyman, | 3 | " " | 758 | |
| P., | 3 | " " | 931 | |
| " | 12 | tierces " | 4,338 | |
| (H.), | 21 | " " | 7,363 | |

GREEN & STONE.

| | | | | | | |
|---|---|---|---|---|---|---|
| 219.49 | 261.42 | 243.48 | 216.49 | 236.48 | 255.46 | 270.48 |
| 267.46 | 183.40 | 237.42 | 231.51 | 237.46 | 241.43 | 278.43 |
| 234.47 | 250.45 | 225.41 | 232.46 | 197.50 | 209.42 | 263.45 |
| 239.48 | 246.44 | 205.51 | 228.49 | 237.43 | 256.46 | 258.47 |
| 217.51 | 266.45 | 248.45 | 260.52 | 232.44 | 190.49 | 225.51 |
| 213.48 | 204.65 | 259.48 | 253.45 | 217.48 | 255.48 | 239.49 |
| 256.46 | 271.50 | 214.46 | 248.42 | 242.47 | 220.48 | 263.47 |
| 259.48 | 250.44 | 235.45 | 253.46 | 212.43 | 242.45 | 265.47 |
| 229.48 | 247.44 | 240.43 | 246.41 | 235.47 | 263.41 | 220.44 |
| 266.48 | 247.48 | 260.46 | 250.46 | 264.47 | 220.46 | 222.53 |
| 2399.479 | 2425.457 | 2366.455 | 2417.467 | 2309.463 | 2351.454 | 2473.474 |

| | H. bbls. | | | M. & C. bbls. | Burrows & Prettyman. | P. |
|---|---|---|---|---|---|---|
| 263.47 | | 270 | 259 | | | |
| 245.46 | | 259 | 263 | | | |
| 223.48 | | 289 | 272 | 179 | | |
| 266.48 | | 194 | 247 | 250 | | |
| 240.46 | | 268 | 258 | 181 | | |
| 246.47 | | 257 | 265 | 245 | | |
| 250.45 | | 244 | 245 | 260 | | |
| 206.48 | | 254 | 264 | 214 | 252 | 308 |
| 259.48 | 209.50 | 265 | 269 | 269 | 254 | 331 |
| 253.42 | 229.44 | 265 | 276 | 252 | 252 | 292 |
| 2451.465 | 438.94 | 20.5183 | | 8.1850 | 3.758 | 3.931 |

| P. tierces. | |
|---|---|
| 378 | 354 |
| 358 | 375 |
| 375 | 373 |
| 371 | 380 |
| 326 | 334 |
| 373 | 341 |
| 12.4338 | |

| H. tierces. | | |
|---|---|---|
| 353 | 361 | 354 |
| 356 | 351 | 334 |
| 353 | 327 | 361 |
| 352 | 352 | 351 |
| 347 | 358 | 361 |
| 323 | 351 | 351 |
| 346 | 353 | 368 |
| 21.7363 | | |

JOHN H. WOOD,
*Weigher.*

*New York*, 4*th Nov.*, 1854.
B.,
D. P. J.

(Duplicate.)

*Returns of Mdze., weighed for Messrs. James E. Woodruff & Co.*

| | | | |
|---|---|---|---|
| Burrows & Prettyman, | 85 Bbls Lard | 21832 gross lbs. | |
| Green & Stone, | 37 " " | 8999 " | 1680. |
| M. & C. | 28 " " | 6715 " | |

BURROWS & PRETTYMAN.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 261 | 257 | 226 | 243 | 260 | 266 | 248 | 264 | |
| 243 | 261 | 274 | 238 | 242 | 263 | 234 | 240 | |
| 246 | 266 | 248 | 277 | 251 | 351 | 258 | 262 | |
| 252 | 274 | 268 | 265 | 245 | 254 | 268 | 249 | |
| 281 | 242 | 272 | 263 | 264 | 226 | 236 | 276 | |
| 281 | 269 | 262 | 243 | 248 | 232 | 248 | 281 | 243 |
| 243 | 243 | 268 | 257 | 256 | 272 | 267 | 212 | 277 |
| 278 | 220 | 269 | 265 | 219 | 266 | 277 | 260 | 253 |
| 265 | 259 | 287 | 244 | 271 | 260 | 255 | 244 | 274 |
| 263 | 264 | 274 | 278 | 243 | 274 | 255 | 229 | 270 |
| 2613 | 2555 | 2648 | 2573 | 2499 | 2564 | 2546 | 2517 | 1317 |

GREEN & STONE.

| | | | |
|---|---|---|---|
| 228.49 | 21.648 | 235.46 | |
| 257.48 | 256.44 | 235.45 | |
| 259.40 | 270.46 | 242.44 | |
| 202.46 | 211.48 | 230.42 | 238.47 |
| 262.51 | 260.43 | 261.44 | 256.44 |
| 253.40 | 254.44 | 252.45 | 240.45 |
| 240.42 | 217.42 | 260.45 | 243.51 |
| 259.48 | 220.41 | 233.50 | 239.42 |
| 208.45 | 260.45 | 200.51 | 263.45 |
| 248.44 | 264.48 | 265.47 | 263.45 |
| 2416.453 | 2428.449 | 2413.459 | 1742.319 |

M. & C.

| | | |
|---|---|---|
| 246 | 222 | |
| 237 | 248 | |
| 215 | 247 | 246 |
| 227 | 233 | 207 |
| 225 | 266 | 208 |
| 262 | 239 | 228 |
| 223 | 247 | 260 |
| 259 | 215 | 246 |
| 250 | 207 | 269 |
| 260 | 262 | 261 |
| 28.6715 | | |

JOHN H. WOOD, *Weigher.*

*New York*, 15*th November*, 1854.
C. D. P. J.

(Duplicate.)

*Return of Mdze, weighed for Messrs. James E. Woodruff & Co.*

*viz.*

H. 200 Bbls. Lard, 51575 lbs.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 256 | 263 | 286 | 262 | 253 | 250 | 265 | 256 |
| 257 | 220 | 234 | 234 | 256 | 270 | 235 | 270 |
| 261 | 266 | 249 | 277 | 263 | 240 | 274 | 224 |
| 277 | 256 | 251 | 254 | 278 | 259 | 269 | 266 |
| 253 | 264 | 279 | 255 | 268 | 257 | 266 | 249 |
| 269 | 261 | 269 | 258 | 203 | 245 | 265 | 279 |
| 252 | 264 | 262 | 250 | 264 | 242 | 256 | 255 |
| 255 | 257 | 269 | 262 | 282 | 272 | 262 | 262 |
| 272 | 252 | 244 | 251 | 260 | 283 | 271 | 260 |
| 256 | 271 | 248 | 267 | 250 | 249 | 205 | 267 |
| 2608 | 2574 | 2591 | 2570 | 2577 | 2567 | 2568 | 2588 |
| | | | | | | | |
| 221 | 273 | 266 | 256 | 183 | 276 | 268 | 275 |
| 249 | 271 | 227 | 223 | 268 | 268 | 264 | 253 |
| 265 | 254 | 261 | 278 | 242 | 269 | 260 | 265 |
| 257 | 263 | 260 | 274 | 252 | 276 | 267 | 257 |
| 264 | 275 | 275 | 248 | 274 | 284 | 255 | 264 |
| 265 | 253 | 244 | 258 | 268 | 243 | 237 | 256 |
| 236 | 261 | 268 | 258 | 258 | 252 | 253 | 261 |
| 259 | 224 | 270 | 277 | 257 | 274 | 287 | 275 |
| 267 | 265 | 260 | 269 | 262 | 246 | 238 | 251 |
| 270 | 235 | 264 | 263 | 218 | 278 | 283 | 268 |
| 2553 | 2574 | 2595 | 2604 | 2482 | 2666 | 2550 | 2625 |
| | | | | | | | |
| 254 | 263 | 259 | 260 | 251 | 206 | 255 | 244 |
| 270 | 281 | 267 | 270 | 267 | 234 | 241 | 263 |
| 246 | 264 | 263 | 270 | 263 | 275 | 268 | 271 |
| 234 | 270 | 260 | 270 | 256 | 234 | 270 | 271 |
| 258 | 257 | 263 | 262 | 216 | 276 | 218 | 263 |
| 2597 | | 2644 | | 2478 | | 2564 | |

JOHN H. WOOD, *Weigher.*

*New York, 25th October*, 1854.

D. D. P. J.

(Duplicate.)

*Return of Mdze. weighed for Messrs. Jas. E. Woodruff & Co., viz.:*

| | | | |
|---|---|---|---|
| M. & C., | 31 | bbls. Lard, | 9,839 lbs. |
| Burrows & Prettyman, | 1 | " " | 277 " |

| M. & C. | | | | Burrows & Prettyman. |
|---|---|---|---|---|
| 265 | 207 | 251 | | |
| 246 | 255 | 234 | 251 | |
| 256 | 229 | 274 | 265 | |
| 254 | 252 | 229 | 251 | |
| 224 | 266 | 269 | 210 | |
| 257 | 240 | 262 | 260 | |
| 267 | 257 | 300 | 252 | |
| 266 | 262 | 262 | 266 | |
| | 31.7839 | | | 1.277 |

JOHN H. WOOD,
*Weigher.*

*New York, 4th Nov.,* 1854.

(Endorsed.)
E. D. P. J.

*Return of lard weighed for acct. of Messrs. Jas. E. Woodruff & Co.*

(W) 192 lbs.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 259 | 261 | 258 | 249 | 268 | 263 | 252 | 250 | 275 | 266 | 260 |
| 262 | 255 | 241 | 276 | 258 | 268 | 264 | 246 | 250 | 248 | 257 |
| 260 | 274 | 240 | 260 | 240 | 267 | 227 | 273 | 223 | 245 | 256 |
| 244 | 254 | 251 | 267 | 238 | 272 | 272 | 250 | 218 | 273 | 259 |
| 239 | 268 | 248 | 241 | 275 | 258 | 248 | 244 | 252 | 250 | 271 |
| 265 | 244 | 236 | 259 | 258 | 270 | 233 | 235 | 250 | 276 | 248 |
| 274 | 279 | 236 | 258 | 263 | 267 | 263 | 265 | 237 | 267 | 255 |
| 271 | 273 | 272 | 252 | 251 | 262 | 232 | 258 | 268 | 251 | 224 |
| 230 | 274 | 277 | 257 | 280 | 265 | 217 | 256 | 204 | 232 | 256 |
| 267 | 238 | 257 | 298 | 249 | 277 | 240 | 235 | 266 | 258 | 257 |
| 2571 | 2620 | 2516 | 2653 | 2580 | 2669 | 2448 | 2512 | 2443 | 2566 | 2543 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 263 | 245 | 263 | 265 | 261 | 266 | 238 | 274 | |
| 219 | 237 | 240 | 260 | 268 | 228 | 270 | 228 | |
| 239 | 241 | 260 | 257 | 270 | 260 | 244 | 262 | |
| 267 | 250 | 251 | 284 | 248 | 290 | 202 | 248 | |
| 240 | 263 | 238 | 263 | 268 | 224 | 242 | 242 | |
| 208 | 233 | 231 | 250 | 244 | 220 | 255 | 273 | |
| 260 | 250 | 264 | 230 | 262 | 270 | 260 | 245 | |
| 270 | 253 | 270 | 265 | 240 | 238 | 257 | 262 | |
| 264 | 267 | 268 | 254 | 276 | 230 | 256 | 220 | 270 |
| 248 | 287 | 257 | 259 | 258 | 260 | 236 | 258 | 234 |
| 2478 | 2526 | 2542 | 2587 | 2595 | 2486 | 2460 | 2512 | 504 |

*Recapitulation.*

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 10 | Bbls. | 2571 | 10 | Bbls. | 2543 | 100 | Bbls. | 25518 |
| 10 | “ | 2620 | 10 | “ | 2478 | | | |
| 10 | “ | 2516 | 10 | “ | 2526 | | | |
| 10 | “ | 2593 | 10 | “ | 2542 | | | |
| 10 | “ | 2580 | 10 | “ | 2587 | | | |
| 10 | “ | 2669 | 10 | “ | 2595 | | | |
| 10 | “ | 2448 | 10 | “ | 2486 | | | |
| 10 | “ | 2512 | 10 | “ | 2460 | | | |
| 10 | “ | 2443 | 10 | “ | 2512 | | | |
| 10 | “ | 2566 | 2 | “ | 504 | 92 | “ | 23233 |
| 100 | “ | 25518 | 92 | “ | 23233 | 192 | “ | 48751 lbs. |

(W) 105 tierces.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 345 | 285 | 334 | 345 | 328 | 320 | 328 | 356 | 343 | 314 | 356 |
| 267 | 346 | 343 | 328 | 366 | 346 | 340 | 347 | 296 | 293 | 366 |
| 341 | 348 | 333 | 324 | 357 | 315 | 322 | 318 | 307 | 290 | 358 |
| 351 | 317 | 366 | 336 | 335 | 332 | 347 | 335 | 360 | 300 | 320 |
| 345 | 340 | 337 | 318 | 305 | 321 | 338 | 348 | 343 | 355 | 324 |
| 347 | 310 | 333 | 331 | 320 | 318 | 326 | 324 | 354 | 313 | |
| 329 | 289 | 277 | 333 | 295 | 335 | 315 | 328 | 324 | 320 | |
| 370 | 320 | 353 | 332 | 323 | 298 | 313 | 353 | 295 | 321 | |
| 343 | 328 | 332 | 340 | 338 | 325 | 300 | 350 | 350 | 340 | |
| 368 | 340 | 353 | 348 | 360 | 288 | 350 | 310 | 355 | 355 | |
| 3406 | 3223 | 3361 | 3335 | 3327 | 3198 | 3279 | 3369 | 3327 | 3201 | 1124 |

*Recapitulation.*

| | |
|---|---|
| 10 Tierces, | 3,406 |
| 10 “ | 3,223 |
| 10 “ | 3,361 |
| 10 “ | 3,335 |
| 10 “ | 3,327 |
| 10 “ | 3,198 |
| 10 “ | 3,279 |
| 10 “ | 3,369 |
| 10 “ | 3,327 |
| 10 “ | 3,201 |
| 5 “ | 1,724 |
| 105 | 34,750 lbs. |

New York, August 23d, 1854.

E. A. DIBBLE, *Weigher.*

(Endorsed.)
F. D. P. G., Exhibit (II.)
Weigher's Return.
(W) 192 barrels of lard.
(W) 105 tierces of lard.
New York, August 23d, 1854.

| | Gross. | Tare. | Nett. | |
|---|---|---|---|---|
| Invoice weight, . | 320,913 | 57,555 | 263,358 | |
| Returns, . . . | 281,198 | 62,966 | 218,232 | |
| | | | 45,126 | |
| | | | | 45,126 |
| Invoice W. . . | 89,985 | 16,611 | 73,374 | |
| | 83,501 | 15,030 | 68,471 | |
| | | | 4,903 | |
| | | | | 4,903 |
| | | | lbs. | 50,029 |

10 empty packages.

Mr. Dubois will oblige me, letting me know how many packages about delivered from the ship Maid of Orleans and put in store by him, were empty or part empty; say how many tierces and barrels; if Messrs. Titus & Burdett have put aside the alleged packages; please get an account from them about what proportion is out.

J. O. WOODRUFF.

| | | | |
|---|---|---|---|
| | ¼ out | III, III, III, III, III, III, III, III, II, | 26 |
| | ½ out | III, III, III, III, III, III, III, II, . | 23 |
| | ¾ out | III, III, III, III, III, III, . . . | 18 |
| M. & Co., | ½ out | III, III, III, III, I, . . . . . | 13 |
| | ¾ out | III, III, III, I, . . . . . . | 10 |
| | ¼ out | III, II, - . . . . . . | 5 |
| | All out | III, III, III, II, . . . . . | 11 |

| Marks. | ⅒ | 1-5 | ¼ | ½ |
|---|---|---|---|---|
| H. G. | 1266 | 190 | 181 | 140 |
| H. H. | 502 | | 190 | |
| H. I. | 2032 | | | |
| G. Q. | 200 | | | |
| G. R. | 100 | | | |
| G. S. | 1595 | | | 91 |
| G. T. | 390 | | | |
| G. V. | 728 | | | |
| G. V. | 1525 | | | |
| G. X. | 360 | | | |
| H. A. | 667 | | | |
| H. B. | 810 | | 32 | |
| H. C. | 202 | | | |
| H. D. | 260 | | | |
| H. E. | 140 | | | |
| C. B. | 21 | | | 69 |
| S. S. & C. | 1155 | 125 | | |
| | 2 | | | |
| H. F. | 65 | | | |

| Marks. | ⅒ | 1-5 | ¼ | ½ |
|---|---|---|---|---|
| C. A. H. | 320 | 135 | | 26 |
| | 4 | | | |
| S. S. C. | 2805 | 85 | 140 | |
| [S. S.] | 970 | | | 21 |
| A. S. C. | 600 | | 68 | |
| W. T. | | | 340 | |
| A. B. & C. | 200 | | | |
| B. P. C. | 50 | | 18 | |
| K. | 350 | | | 20 |
| W. E. B. | 48 | | 100 | 10 |
| R. S. L. & B. R. | | | 349 | |
| [J. S.] | 2986 | | | 30 |
| K. & C. & K. C. | 450 | | 260 | |
| [S.] | 387 | | | 72 |
| R. E. K. | 450 | | 32 | |
| M. P. | 186 | | 50 | |
| F. | 901 | | 68 | |
| F. | | | 248 | |
| H. I. $\underset{3}{\frac{1}{10}}$ | | | | |
| G. S. 2. | | | | |
| No. 1. | | | | |
| (J. S.) 2. | | | | |
| No mark, 13. | | | | |
| C. A. H. 4. | | | | |
| S. S. & C. 2. | | | | |
| [J. S.] 1. | | | | |

Staten Island, Aug. 24, 1857. W. PARTRIDGE.

| | ⅛ | 1-5 | ¼ | ⅒ | Over. | Short. |
|---|---|---|---|---|---|---|
| H. G. | 140 | 230 | 181 | 1240 | | |
| H. H. | | | 190 | 510 | | 8 |
| H. T. | | | | 2030 | 7 | |
| G. Q. | | | | 200 | | |
| G. R. | | | | 100 | | |
| G. S. | | | | 1595 | | |
| G. T. | 91 | | | 390 | | 10 |
| G. V. | | | | 738 | | |
| G. V. | | | | 1525 | | |
| G. X. | | | | 360 | | |
| H. A. | | | | 667 | | |
| H. B. | | | | 790 | 20 | |
| H. C. | | | 32 | 220 | | 20 |
| H. D. | | | | 260 | | |
| H. F. | | | | 140 | | |
| No mark. 17. | | | | | | |

(Endorsed.)

W. R. B. (No. 2.) No. 2.

Feb'y 19, 1858. THOS. L. BOSS.

No. 28.

In pursuance of an Act of the Congress of the United States of America, entitled "An Act concerning the Registering or Recording of Ships or Vessels."

William Nelson of the City, County and State of New York, having taken or subscribed the oath required by the said Act, and having sworn that he, the said William Nelson, Edward S. Dennis of said place, John Bunker, of Brooklyn; Sherburn Sears, of Milton, Ulster Co., State of New York, and Aaron Cohen, of New Orleans, State of Louisiana, are the only owners of the ship or vessel called the Maid of Orleans, of New York, whereof Edward S. Dennis is at present master, and a citizen of the United States; and, that the said ship or vessel was built at the city aforesaid, in the State of New York, during the past and present year 1847 and 1848, as per certificate of Messrs Brown & Bell, master builders, under whose direction she was built, and E. F. Purdy, Surveyor of this Port, having certified that the said ship or vessel has two decks and three masts, and, that her length is one hundred and fifty-eight feet seven inches; her breadth, thirty-six feet; her depth, twenty one feet six inches; and, that she measures nine hundred and thirty-four $\frac{45}{95}$ tons, that she is a ship; has a square stern; no galleries; and a woman figure head; and the said William Nelson having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said Act, the said ship has been duly registered at the Port of New York.

Given under our hands and seals at the Port of New York, this 20th day of January in the year one thousand eight hundred and forty-eight.

District and Port of New York,
Collector's Office.

I hereby certify that the within is a true copy of the original on record in this office.

Seal of Collector's Office, District of New York.
W. J.

Given under my hand and seal,
9th March, 1858.
J. WHITE,
*Dep'ty Collector.*

(Endorsed.)
Exhibit (3)
Woodruff & Co.,
40 Broad St.
Fees $1.50.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the City Hall, in the city of New York, on Wednesday, the 28th day of

April, in the year of our Lord one thousand eight hundred and fifty-eight.

Present—The Honorable Samuel R. Betts, District Judge:

John O. Woodruff, survivor, &c. }
*vs.* } 14, 118.
William Nelson, *et als.*, }

This case having been heard on the pleading and proofs, and argued by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged and decreed, by the Court, that the libel in this case be dismissed with the costs to the respondents to be taxed.

SAMUEL R. BETTS.

(Endorsed.)

Vol. 14, No. 118. United States District Court, for the Southern District of New York.

John O. Woodruff, *et al.*,
*vs.*
William Nelson, *et als.*

**Beebe, Dean & Donohue,**
Proctors for Libellants.
**Goodman & Jessup,**
for Respondents.

Decree dismissing libel with costs.

Filed the 28th day of April, 1858.

U. S. District Court:

John O. Woodruff and another,
*ads.*
William Nelson and others.

**Sir.**—You will please to take notice that the above named libellants appeal to the Circuit Court of the United States for the Southern District of New York, in the Second Circuit, from the final decree entered in this cause.

Dated May 8, 1858.

Yours, &c.,
BEEBE, DEAN & DONOHUE,
*Proctors for Libellants.*

To **Geo. F. Betts**, Esq., *Clerk.*

(Endorsed.)

14, 118, U. S. District Court.

John O. Woodruff, et al.,
*vs.*
William Nelson, et als.

Notice of appeal.

**Beebe, Dean & Donohue**, *Proctors.*

Filed, May 8th, 1858.

Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit.

John O. Woodruff and another,
libellants and appellees,
*vs.*
William Nelson and others,
respondents and appellants.
} *Bond for costs.*

Know all men by these presents, that we, John O. Woodruff, Marcus P. Woodruff and Elias Dusenberry of New York City, are held and firmly bound unto the above named respondents and appellees in the sum of two hundred and fifty dollars, to be paid to the said respondents for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally firmly by these presents. Sealed with our seals and dated the eighteenth day of May, in the year of our Lord one thousand eight hundred and fifty-eight.

Whereas the above named libellants have prosecuted an appeal to the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit, to reverse the decree rendered in the above entitled suit, by the Judge of the District Court of the United States, for the Southern District of New York:

Now, therefore, the condition of this obligation is such, that if the above named appellants shall prosecute their appeal to effect and answer all damages and costs, if they fail to make their appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

JOHN O. WOODRUFF, [SEAL.]
MARCUS P. WOODRUFF, [SEAL.]
ELIAS DUSENBERRY. [SEAL.]

Sealed and delivered, and taken and acknowledged, this 18th day of May, 1858, before me.

JOSEPH BRIDGHAM, *U. S. Com'r.*

United States of America,
Southern District of New York.
} *ss.*

Marcus P. Woodruff and Elias Dusenberry, each for himself, being duly sworn, deposes and says, that he resides in the city of

New York, and that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

MARCUS P. WOODRUFF,
ELIAS DUSENBERRY.

Sworn to, this 18th day of May,
A. D. 1858, before me.
JOSEPH BRIDGHAM, *U. S. Com'r.*

The sufficiency of the sureties to the within bond approved.
SAML. R. BETTS, *District Judge.*

New York, May 18, 1858.

(Endorsed.)
Vol. XIV., page 118.
U. S. Circuit Court.

John O. Woodruff and another,
*v.*
William Nelson and others,
respondents and appellees,
} Bond for costs on appeal.

BEEBE, DEAN & DONOHUE, *Proctors.*

Filed, this 18th day of May, 1858.

Circuit Court of the United States, for the Southern District of New York, in the Second Circuit.

John O. Woodruff and another,
libellants and appellants.
*ads.*
William Nelson and others,
respondents and appellees.

To the Honorable, the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit:

The petition of the above named libellants and appellants, respectfully showeth, that heretofore, and on or about the seventeenth day of March, 1857, the libellants exhibited their libel in the District Court of the United States for the Southern District of New York, against the above named respondents praying, for the reasons therein mentioned, that the said Court would be pleased to pronounce against the said respondents for the claim in such libel mentioned, with costs. That process was thereupon duly issued and the respondents appeared and answered; that thereafter and on or about the 28th day of April, 1858, a final decree was made in the said District Court dismissing such libel with costs; whereas these libellants allege that by law they were entitled to a decree for their said claim with costs; for which, and other reasons, these libellants appeal to the Circuit Court to be held in and for the said district; and they intend to have such appeal heard anew on the pleadings and proofs in said District Court, and on new pleadings and proofs to be introduced in such Circuit Court.

And the libellants pray that the record and proceedings may be reversed, or such other decree made therein as may be just.

BEEBE, DEAN & DONOHUE,
*Proctors for Appellants.*

(Endorsed.)

14, 118. U. S. Circuit Court.

John O. Woodruff and another,
*ads.*
William Nelson and others.
} Petition for appeal.

BEEBE, BEAN & DONOHUE, *Proctors.*

Filed, August 16, 1858.

At a special term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the City Hall, in the city of New York, on Thursday, the twenty-second day of September, in the year of our Lord one thousand eight hundred and fifty-nine.

Present—The Honorable SAMUEL NELSON, an Associate Justice of the Supreme Court of the United States.

John O. Woodruff, *et al.*
Libellants and Appellants,
*vs.*
William Nelson, *et als.*
Claimant and Appellees.

The appeal from the District Court in this case coming on to be heard,

Mr. Beebe reads from the Apostles the evidence on the part of libellant and appellant.

Mr. Goodman reads from the Apostles the evidence on the part of respondent and appellee.

Mr. Goodman argues on the part of respondent and appellee.

Mr. Donohue argues on the part of libellant and appellant.

Mr. Beebe argues on the same side.

Mr. Houghton is heard in reply.

*Cur adv. vult.*

At a special term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the City Hall, in the City of New York, on Thursday, the thirteenth day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Present—The Honorable Samuel Nelson, an Associate Justice of the Supreme Court of the United States.

John O. Woodruff and Robert M. Henning, surviving co-partners of James E. Woodruff, deceased,
Libellants and Appellants.
*vs.*
William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears, and Aaron Cohen, owners of the ship Maid of Orleans, &c.
Respondents and Appellees,

This cause having been brought to a hearing upon an appeal to this Court from a final decree of the District Court of the United States for the Southern District of New York, and the said cause having been duly heard upon the Apostles therein, and argued by W. R. Beebe, Esq., advocate for libellants and appellants, and Messrs. Houghton and Goodman, advocates for respondents and appellees, and due deliberation having been had in the premises, it is ordered, adjudged, and decreed by the said Court now here, that the said decree of the said District Court heretofore made in this cause, dismissing the libel herein with costs be and the same is hereby in all things affirmed with costs to the said appellees to be taxed at seventy-one dollars and seventy cents.

To the Honorable the Supreme, Court of the United States of America.

The Petition of Appeal of John O. Woodruff and Robert N. Henning, survivors of James E. Woodruff, deceased—

Respectfully showeth:

That heretofore, and on or about the eighth day of March, 1857, your petitioners filed their libel in the District Court of the United States, for the Southern District of New York, claiming damages to cargo consigned to the petitioners amounting to six thousand dollars against William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears, and Aaron Cohen.

That thereafter an answer was duly filed, taking issue on such libel, and the cause was duly heard in said District Court, by a decree thereof, on the eighteenth day of March, 1858. The said Court adjudged and decreed that the libel should be dismissed with costs to be taxed, that the petitioners duly prosecute their appeal from the said decree to the Circuit Court of the United States for the Southern District of New York, in the Second Circuit and the same was duly heard in said Court and that thereafter, the said Circuit Court did order, adjudge, and decree, that said decree of the District Court should be in all things affirmed with costs.

That your petitioner respectfully insists that the said decree is erroneous, and he appeals from the said decree, and each and every part thereof, and prays that the Supreme Court of the United States may proceed to hear the said cause anew, on new allegations and proofs, and to reverse and annul said decree of the said Circuit Court, and to restore to the appellant all rights which he has lost by reason of said decree.

BEEBE, DEAN & DONOHUE, *For Appellant.*

Filed, October 25, 1859.

Circuit Court of the United States of America,
For the Southern District of New York, in the Second Circuit.

John O. Woodruff and Robert N. Henning,
Survivors of James E. Woodruff, dec'd.
Libellants and Appellants,
*vs.*
William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen, Respondents and Appellees.

Bond for Costs.

Know all men by these presents, that we, Robert N. Henning and Marcus Woodruff, are held and firmly bound unto the above named William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen, in the sum of five hundred dollars, to be paid to the said William Nelson and others, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally firmly by these presents. Sealed with our seals, and dated the seventeenth day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Whereas, the above named John O. Woodruff, *et al.*, have prosecuted their appeal to the Supreme Court of the United States, to reverse the decree rendered in the above entitled suit, by the Judge of the Circuit Court of the United States, for the Southern District of New York.

Now, therefore, the condition of this obligation is such, that if the above named John O. Woodruff, *et al.*, shall prosecute their appeal to effect and answer all damages and costs, if they fail to make their appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

R. N. HENNING, [SEAL.]
MARCUS P. WOODRUFF, [SEAL.]

Sealed and delivered, and taken and acknowledged, this 22d day of October, 1859, before me.

[SEAL.] O. R. STEELE, *Notary Public.*

United States of America, }
Southern District of New York: } *ss.*

Robert N. Henning and Marcus P. Woodruff, each for himself, being duly sworn, doth depose and say, that he resides in the Southern District and State of New York, and that he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

R. N. HENNING,
MARCUS P. WOODRUFF.

Sworn to, this 22d day of October,
A. D. 1859, before me.
[SEAL.] O. R. STEELE, *Notary Public.*

(Endorsed.)—United States Circuit Court. John O. Woodruff, *et al.*, Libellants and Appellants, *vs.* William Nelson, *et als.*, Respondents and Appellees. Bonds for costs on appeal.

BEEBE, DEAN AND DONOHUE, *Proctors.*

Approved October 24th, 1859. SAML. R. BETTS.
Filed this 24th day of October, 1859.

By the Honorable Samuel R. Betts, Judge of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit:

To William Nelson, Edward S. Dennis, Francis Bartlett, Sherburne Sears and Aaron Cohen.

Whereas, John O. Woodruff and Robert N. Henning, survivors of James E. Woodruff, deceased, have lately appealed to the Supreme Court of the United States from a decree lately rendered in the Circuit Court of the United States for the Southern District of New York, in the Second Circuit, made in favor of you the said William Nelson, and others, against the said John O. Woodruff, *et al.*, and has filed the security required by law. You are therefore hereby cited to appear before the said Supreme Court at the City of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the City of New York, in the Southern District of New York, in the Second Circuit, the seventeenth day of October, in the year of our Lord, 1859, and of the Independence of the United States the eighty-fourth.

SAM. R. BETTS.

BEEBE, DEAN, AND DONOHUE, *Proctors of Appellants.*
Filed October 25th, 1859.

(Endorsed.)—U. S. Supreme Court. John O. Woodruff, *et als.*, appellants, *vs.* Wm. Nelson, *et als.*, appellees. Citation.
Beebe, Dean & Donohue, Proctors for Appellant.
I admit due service of a copp of the within citation.
October 1859.
Filed Oct. 29, 1859.

1408